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The Legislative Acts of the Governor general of India in Council, 1834

Sir William Theobald

S~ Law and Legislation/ governor general/ Acts/ India/ 1834

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ADDENDUM.

THE following note is to be read with Act IV. of 1840.

In all places in which the Code of Criminal procedure came into force on the 1st day of January 1862, Act IV. of 1840, was repealed by Act XVII. of 1862.

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THE LEGISLATIVE ACTS

OF THE

GOVERNOR-GENERAL OF INDIA

IN COUNCIL.

ACT No. II. OF 1834.

An Act to correct a misnomer by which the Secretaries of the Indian Governments were, in certain Acts of Parliament, described as "Chief Secretaries."

Be it enacted, that each of the Secretaries to the Government of India, and to the Government of Fort William in Bengal, shall be competent to perform all the duties, and to exercise all the powers, which, by any Act of Parliament or any Regulation now in force, are assigned to the Chief Secretary to the Government of Fort William in Bengal, and that each of the Secretaries to the Government of Fort St. George and Bombay respectively shall be competent to perform all the duties, and to exercise all the powers, which, by any Act of Parliament, or any Regulation now in force, are assigned to the Chief Secretaries to the Governments of Fort St. George and Bombay respectively.

ACT No. II. OF 1835.

An Act placing the functionaries of Assam, Arracan and Tenasserim under the control of the Sudder Dewanny Nizamut Courts.

THE REPEAL OF THIS ACT IS CONTINGENT ON BILL NO. 10 OF 1870, AS NOW BEFORE THE LEGISLATIVE COUNCIL, BECOMING LAW.

Bengal.

ACT NO. VI. OF 1835.

An Act placing functionaries in the Cachar and the Cossyah Hills under the control of the Sudder Dewanny and Nizamut Court and of the Board of Revenue.

THE REPEAL OF THIS ACT IS CONTINGENT ON BILL NO. 10 OF 1870, AS NOW BEFORE THE LEGISLATIVE COUNCIL, BECOMING LAW.

General.

ACT No. XVII. OF 1835.

1.—2. Defines the future weights, standards and denominations of silver coins, and describes the device to be borne on them.
3. Declares new coins legal tender.
4. Fixes the relative values of the new and old coins.
5. Quarter rupee in what case to be legal tender.
6. Existing contracts how to be performed.
7.—9. Defines future standard, value and denomination of gold coins, and declares them no longer legal tender.
10. Powers of Governor-General in Council.

Weights, Denominations and standards of silver coins.

Be it enacted, that from the first day of September, 1835, *the undermentioned silver coins only shall be coined at the mints within the territories of the East India Company* :*—A Rupee, to be denominated the Company's Rupee; a Half Rupee; a Quarter Rupee; and a Double Rupee: and the weight of the said Rupee shall be 180 Grains Troy, and the standard shall be as follows:

11-12ths or 165 Grains of pure Silver,
1-12th or 15 „ of Alloy.

and the other coins shall be of proportionate weight and of the same standard.

Device on silver coins.

II. And be it enacted, that these coins shall bear on the obverse the head and the name of the reigning Sovereign of the United Kingdom of Great Britain and Ireland, and on the reverse the designation of the coin in English and Persian, *and the words "East India Company" in English,* * with such embellishment as shall, from time to time, be ordered by the Governor-General in Council.

Coins in what case to be legal tender.

III. And be it enacted, that the Company's Rupee, Half Rupee, and Double Rupee, shall be a legal tender in satisfaction of all engagements, provided the coin shall not have lost more than two per cent. in weight, and provided it shall not have been clipped, or filed, or have been defaced otherwise than by use.

Relative value of the new and old coins.

IV. And be it enacted, that the said Rupee shall be received as equivalent to the Bombay, Madras, Furruckabad and Sonat Rupees, and to fifteen-sixteenths of the Calcutta Sicca Rupee; and the Half and Double Rupee respectively shall be received as equivalent to the Half and Double of the above mentioned Bombay, Madras, Furruckabad and Sonat Rupees, and to the Half and Double of fifteen-sixteenths of the Calcutta Sicca Rupee.

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* The words italicised have been repealed by Section 1 Act XIII 1862.

V. And be it enacted, that the Company's Quarter Rupee shall be a legal tender only in payment of the fraction of a Rupee.

Quarter Rupee in what case to be legal tender.

VI. Provided, that if in any contract for the payment of Calcutta Sicca Rupees it shall have been specially stipulated that if payment be made in the territories of the Madras, Bombay, or Agra Presidency, it shall be made in the Rupee now current in those Presidencies respectively, at a different rate from that above provided with reference to the Calcutta Sicca Rupee, the contract shall be satisfied by payment within those Presidencies of Company's Rupees of the amount of Furruckabad, Madras, or Bombay Rupees so specially stipulated:—Provided also, that if payment of the principal or interest of the Public Debt be made for the convenience of creditors at any public Treasury other than as stipulated in the notes and engagement of the Government, it shall be competent to the Government to make such payments at the same exchange as heretofore.

Saving of existing contracts.

VII. And be it enacted, that the undermentioned gold coins only shall henceforth be coined at the mints within the territories of the East India Company.

Denominations, Weights and standards of gold coins.

First.—A Gold Mohur or Fifteen-Rupee piece of the weight of 180 Grains Troy, and of the following standard, *viz* :—

11-12ths or 165 Grains of pure Gold,
1-12th or 15 „ of Alloy.

Second.—A Five-Rupee piece, equal to a third of a Gold Mohur.

Third.—A Ten-Rupee piece, equal to Two-thirds of a Gold Mohur.

Fourth.—A Thirty-Rupee piece or Double Gold Mohur; and the three last mentioned coins shall be of the same standard with the old Mohur, and of proportionate weight.

VIII. And be it enacted, that these gold coins shall bear on the obverse the head and name of the reigning Sovereign of the United Kingdom of Great Britain and Ireland, and on the reverse the designation of the coin in English and Persian, *and the words "East India Company" in English,** with such embellishment as shall from time to time be ordered by the Governor-General in Council, which shall always be different from that of the silver coinage.

Device on gold coins.

IX. And be it enacted, that no gold coin shall henceforward be a legal tender of payment in any of the territories of the East India Company.

Gold coin to be no longer legal tender.

X. And be it enacted, that it shall be competent to the Governor-General in Council, in his executive capacity, to direct the coining and issuing of all coins authorized by this Act; to prescribe the devices and inscriptions of the copper coins issued from the mints in the said territories, and to establish, regulate, and abolish mints, any law hitherto in force to the contrary notwithstanding.

Powers of Governor General in Council.

* The words italicised have been repealed by Act VIII of 1868.

ACT NO. IX. OF 1836.

Authorising the Commanding Officer of a military station to administer within its limits the same oaths as a Justice of the Peace.

It is hereby enacted, that the Commanding Officer of any military station occupied by troops in the service of the East India Company, shall be competent to administer, within the limits of such military station, any oath which a Justice of the Peace is competent to administer within the said territories, and that such oath shall in all respects, be of the same effect as if taken within the said territories before a Justice of the Peace.

ACT No. X OF 1836.

1. Repealing Section.
2. In cases of disputed right to Indigo plant, a claimant who has obtained an order for delivery, may not cut or remove the plant till he have given security.
3. Person wilfully prevailing on ryot to break a contract under which he has taken an advance of money, to be conjointly liable to Civil action for damages. Proviso.
4. Examination of parties, and compensation in certain cases.
5. (Repealed.)

Regulation repealed.

I. Repealing clause 3 Section 5 Regulation VI., 1823. *(Bill No. 8, 1870 proposes to repeal this section).*

Claimant who obtains order of delivery not to cut or remove Indigo plant without giving security to satisfy future claim.

II. And it is hereby enacted, that whenever the right to Indigo plant may be contested, and an order shall be passed, under the provisions of clause ninth, section 3, Regulation VI. 1823, of the Bengal Code, for the delivery of Indigo plant to one of the parties claiming the same, such party shall not be allowed to cut or remove the Indigo plant until he shall have given sufficient security to the satisfaction of the Court trying the case, to make good any claim that shall be ultimately established to such Indigo plant, whether arising from a prior right to the produce of the land, or from an arrear of rent due on account of the specific parcel of land from which the plant may have been produced.

Liability to Civil action of any persons instigating breach of contract.

III. And it is hereby enacted, that when a lawful contract shall have been made between a ryot and another party, by which contract the ryot shall have bound himself to cultivate Indigo plant for the other party, or to deliver Indigo plant to the other party, and when the other party shall have advanced money to the ryot for the purpose of enabling the ryot to fulfil such contract, then if any other person, knowing that such contract exists, and that such advance has been made, shall prevail upon the ryot to break such contract, the party who made the advance shall be entitled to proceed by civil action against the person who shall have so prevailed on the ryot, as well as against the ryot, and to recover from him or them, jointly or severally, damages to the extent of the injury sustained, together with costs of suit.

Proviso.

Provided always, that nothing in this Section contained shall be construed to give a right of action against any person in consequence of any Act which that person may have done for the purpose of procuring payment of a debt, or performance of a lawful contract.

Examination of parties, and compensation of defendant in certain cases.

IV. And it is hereby enacted, that the Court trying any suit instituted under the provisions of Regulation VI. 1823, of the Bengal Code, or under the provisions of this Act, shall be authorized to examine both the plaintiff and the defendant, whenever the Court shall deem such examination necessary to the ends of justice; and if the award be in favour of the defendant, to assign to the defendant a sum which may be a compensation to him for the expense and loss of time occasioned by the proceeding.

ACT No. XX. OF 1836.

1. Repealing Section.
2. Butwarra in progress how to be quashed.
3. Board may quash after six months' notice if no objection be raised.
4. Legalises Acts done before Oct. I. 1836.

I. Bill No 8 of 1870 proposes to repeal this Section, which repeals Regulation XI. 1822 Section 3, part of Clause 3.

II. And it is hereby enacted, that from the said first day of October, 1836, no butwarra, while in progress, shall be quashed by the Board of Revenue, or by any officer invested with the powers of the said Board, except as hereinafter provided.

Butwarra in progress how to be quashed.

III. And it is hereby enacted, that it shall be lawful for the said Board, or for any of the said officers, to give six months' notice in writing of an intention to quash any butwarra ; and such notice shall be affixed at the offices of the Collector of the district and Moonsiff of the jurisdiction, within which the lands under partition, or part of those lands, may be situated ; and if within six months after such notice, no party to the said butwarra shall deliver to the said Collector a written declaration, that he, the said party, objects to the quashing of the said butwarra, it shall be lawful for the said Board or the said officer to quash the said butwarra.

Board may quash a butwarra after six month's notice affixed in Collector's and Moonsiff's offices, if no objection be raised.

IV. Bill No. 8 of 1870 proposes to repeal this Section.

ACT No. XXI. OF 1836. *

Conferring upon the Governor-General in Council power to create new zillahs, and alter the limits of existing zillahs.

THE REPEAL OF THIS ACT IS CONTINGENT ON THE PASSING AS NOW BEFORE THE LEGISLATIVE COUNCIL OF BILL NO. 10 1870, WHICH CONTINUES THE POWERS CONFERRED HERE IN A MODIFIED FORM.

ACT No. XXII. OF 1836. †

1. Repealing Reg. VII. 1810, and part of Reg. XVIII. 1806
1.—5. Empower the Local Government to prescribe amount and appoint Collectors of tolls in Eastern Canal, and limiting the aggregate thereof.
6. Penalties for wilful obstruction or damage.
7. Notification of rates and places of collection, and rules.
8.—9. Realisation of tolls in cases of non-payment, and forfeiture of boats &c., for resistance or evasion.

I. It is hereby enacted, that from the first day of November, 1836, Regulation VII. of 1810 of the Bengal Code, and also such parts of Regulation XVIII. of 1806 of the Bengal Code as relate to the Eastern cannal, commonly called "Tolly's Nullah," which connects the river Hooghly with the Sunderbunds, shall be repealed.

Repeal of Reg. VII. 1810, and parts of Reg. XVIII. 1806.

II. And it is hereby enacted, that from the said first day of November, 1836, the Governor of Bengal shall be competent to prescribe the amount of toll, and the mode of levying the same, on boats, rafts and floats, which shall enter on, or pass out of, or through, either of the two lines of navigation hereinafter described—that is to say :

Amount of toll on boats, &c. entering in or passing out of or through the Eastern canal to be prescribed by the Governor of Bengal.

* As to power of Lieutenant-Governor of Bengal see Act IV. 1864 of the Bengal Council.

† This Act to cease to apply to all navigable channels to which Act V. 1864 of the Bengal Council may be extended. *Vide* V. 1864 the Bengal Council, Section 2.

1st. The Eastern canal aforesaid, from its entry into the Sunderbuns to its junction with the river Hooghly.

2nd. The line made up of the channel across the salt-water Lake to Baminghatta, of the canal leading from the Salt-water Lake to the Boitakhana road, and of the new Circular Canal which connects the last-mentioned canal with the river Hooghly.

Aggregate not to exceed a certain sum specified.

III. Provided always, that the aggregate amount of toll levied on account of the whole passage along either of the two lines aforesaid, or on account of entering into, or passing out of, either of the two lines aforesaid, shall in no case exceed one rupee and a half for every hundred maunds burden on any boat, or two annas for every timber, on every raft of timber, or four annas for every hundred bamboos, on every float of bamboos.

IV. *Repealed by Act X. 1853.*

Appointment and powers of Collectors of tolls.

V. And it is hereby enacted, that the said Governor shall be competent to appoint officers for the collection of the tolls and rent hereinbefore mentioned, and to confer on such officers for the purpose of preventing acts whereby either of the said lines of navigation may be obstructed, or whereby the banks alone either of the said lines of navigation may be damaged, any or all the powers possessed by Magistrates in respect to navigable streams and rivers.

Penalty for wilful obstruction or damage

VI. And it is hereby enacted that whoever wilfully causes any obstruction of either of the said lines of navigation or any damages to the banks along either of the said lines of navigation, shall be punishable, on conviction before the Magistrate, with imprisonment for a term not exceeding fourteen days, or fine to an amount not exceeding 50 Rupees, or both: and in default of payment of such fine, with additional imprisonment for fourteen days.

Notifications of rates and places of collection, and of rules, how to be published.

VII. And it is hereby enacted, that notifications of the rates of toll and rent, and of the places of collection, and of all rules made by the said Governor under the authority given to him by this Act, shall be published in the Calcutta Gazette, and exposed to public view at every toll-house on either of the said lines, in the English, Persian and Bengalee tongues.

Seizure and sale of boat and cargo if the toll or rent be not paid on demand.

VIII. And it is hereby enacted that if the toll or rent due in respect of any boat, raft or float, on either of the said lines, shall not be paid on demand to an officer authorised by the said Governor to receive the same, it shall be lawful for such officer to seize such boat, raft or float, and the cargo thereof and to detain the same; and if the said toll or rent shall have been paid upon any day before the tenth day after such seizure, then the said boat, raft or float shall be released, or if not paid within the said ten days it shall be lawful for such officer, with the sanction and under the directions of the Superintendent of Canals, to sell the property seized or so much thereof as the said Superintendent shall direct, for the purpose of satisfying the toll or rent which may be due, and also of defraying the expenses of seizure and detention. And in every such case, so much of the property seized which has not been sold, and so much of the price of the property sold as is in excess of the sum necessary for satisfying the toll or rent which is due, and for defraying the expenses of seizure and detention, shall be returned to the owner of the boat, raft or float.

Forfeiture in case of evasion or resistance.

IX. And it is hereby enacted, that if any person in charge of any boat, raft or float, shall attempt to evade payment of the toll or rent due thereon, or shall resist a seizure made by the authority and under the circumstances hereinbefore described, such boat, raft or float and the cargo thereof, shall be forfeited to the Government under orders of the Superintendent subject to appeal to the Commissioner of Revenue and Police.

ACT No. XXVI. OF 1836.

1. Empowers the Governor-General in Council to appoint a Superintendent of the Police of the camp of the Governor-General, the Commander-in-Chief or the Lieutenant-Governor, N. W. P.

2. Jurisdiction of Superintendent concurrent with that of Magistrate.

3.—4. Commitment or sentence of the Superintendent to be carried out by Magistrate, and Officers subordinate to the Magistrate to assist the Superintendent.

I. It is hereby enacted, that as often as the Governor-General of India, or the Commander-in-Chief of all the forces in India, or the Lieutenant-Governor of the N. W. P., shall pass through any part of the territories of the East India Company, attended by a camp, it shall be lawful for the Governor-General of India in Council, by an order in Council, to appoint a Superintendent of the Police of such camp.

When G. G. in C. may appoint a Superintendent of the Police of his camp or of that of the C. in C. or the Lieutenant-Governor of the N. W. P.

II. And it is hereby enacted, that with respect to all offences committed in any such camp, or on the line of march between the stations of any such camp, such Superintendent shall have concurrent criminal jurisdiction with the Magistrate of the zillah or city within which such offence shall have been committed.

Superintendent to have concurrent jurisdiction with Magistrate.

III. And it is hereby enacted, that as often as the said Superintendent shall, by virtue of the powers conferred on him by the preceding clause, commit any person for trial before the Sessions Court, or sentence any person to imprisonment, it shall be lawful for the said Superintendent to transmit such person to the Magistrate of the zillah or city where the camp shall then be, with a copy of the commitment or sentence, under the hand of him, the said Superintendent, and the said Magistrate shall give effect to such commitment or sentence.

Magistrate to give effect to sentence of Superintendent.

IV. And it is hereby enacted, that all officers subordinate to the Magistrate of the zillah or city where such camp shall be, shall be assisting to the said Superintendent in the exercise of the powers conferred on him by this Act, in the same manner as they are bound to be assisting to the said Magistrate.

Subordinate officers to assist the Superintendent.

ACT No. IV. OF 1837.

1.—2. *Property in land in the territories of the East India Company may be held by any subject of the Crown subject to all rules applicable to holdings by Natives.*

I. It is hereby enacted that, after the 1st day of May next, it shall be lawful for any subject of his Majesty, to acquire and hold in perpetuity, or for any term of years, property in land, or in any emoluments issuing out of land, in any part of the territories of the East India Company.

II. And it is hereby enacted that, all rules which prescribe the manner in which such property as is aforesaid may now be acquired and held by natives of the said territories, shall extend to all persons who shall, under the authority of this Act, acquire or hold such property.

ACT No. VI, OF 1837.

BILL NO. 8 NOW BEFORE THE LEGISLATIVE COUNCIL PROPOSES TO REPEAL THIS ACT.

ACT No. VII. OF 1837.

Empowers the Supreme Courts to discharge on his own recognizance any convict for whom they have recommended a free pardon.

It is hereby enacted, that it shall be lawful for any of the Courts established by his Majesty's charters, in any case in which such Court shall have recommended to his Majesty the granting of a free pardon to any convict, to permit such convict to be at liberty on his own recognizance.

ACT NO. XXI. OF 1837.

1.—3. *Empower the Local Government to dispense with any oath now required to be taken, not being an oath taken in the course of a judicial proceeding, substituting for the same a written declaration.*

The Local Government may dispense with any oath now required to be taken.

I. It is hereby enacted, that from the first day of October, 1837, it shall be lawful for the Governor in Council of any Presidency of which there is a Council, and for the Governor of any Presidency of which there is no Council, to dispense with any oath, which by any Regulation of that Presidency or by any Act of the Governor-General of India in Council is now required to be taken, and that it shall be lawful for the Lieutenant-Governor of the N. W. Provinces to dispense with any oath which by any Regulation or any Act of the Governor-General of India in Council now in force within those Provinces is now required to be taken.

Dispensing power not to extend to oath in any judicial proceeding.

II. Provided always, that the dispensing power given by this Act shall not extend to any oath now required by law to be taken in any stage of any judicial proceeding.

III. And it is hereby enacted, that whenever any oath is dispensed with under the authority given by this Act, the person who but for such dispensation would have been legally required to take such oath shall, in the presence of the functionary by whom but for such dispensation such oath would have been administered, make and subscribe a declaration in writing to the same effect with such oath.

Written declaration to same effect to be substituted for oath.

IV. Repealed by Act XVII. 1862.

ACT NO. XXIX. OF 1837.*

I—2. Empower the Governor-General in Council to dispense with the use of the Persian language, and prescribe the language to be used, in any Judicial or Revenue proceedings, and delegate the above power to subordinate authorities with such restrictions as he may think fit.

I. It is hereby enacted, that from the first day of December, 1837, it shall be lawful for the Governor-General of India in Council, by an order in Council, to dispense, either generally, or within such local limits as may to him seem meet, with any provision of any Regulation of the Bengal Code, which enjoins the use of the Persian language in any Judicial proceeding or in any proceeding relating to the Revenue, and to prescribe the language and character to be used in such proceedings.

II. And it is hereby enacted, that from the said day it shall be lawful for the said Governor-General of India in Council, by an order in Council, to delegate all or any of the powers given to him by this Act, to any subordinate authority, under such restrictions as may to the said Governor-General of India in Council seem meet.

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* This Act has been repealed by Act VIII. 1868 except so far as it gives power to prescribe the language and character to be used in revenue and judicial proceedings, and to delegate such power.

ACT NO. V. OF 1838.

1—3. Constitute certain persons a corporate body under the name of the Bengal Bonded Warehouse Association; empower them to sue and be sued by their corporate name, and acquire, hold and transfer property; capital stock to be Rs. 10,00,000 in 2,000 shares of Rs. 500 each.

4—6. Provisions regarding Registration of proprietors; and certificates and transfer of shares.

7. Membership to cease with proprietorship, and vice versâ.

8—10. Business by whom to be managed; removal, rotation and re-eligibility of Directors.

11. Appointment of successor to Director ceasing to be so otherwise than by rotation.

13. No one not resident in Bengal to be a Director.

15.—16. Provisions regarding ordinary general and extraordinary general meetings.

17—20. Questions at general meeting how to be decided; votes of Directors and mode of voting.

21. Power of directors to expend money, enter into contracts, appoint or remove servants, and manage generally; seal may be kept, but must, when affixed be witnessed by three Directors.

22.—23. Power of Directors to call for instalments; interest chargeable on unpaid calls, and dividend applicable in satisfaction of same.

24. Directors may refuse to register transfer of share of proprietor who has not paid up, and may sell unpaid shares.

25. Act XXV. 1836 to apply to the Association's warehouses.

26. Association may give general security by bond under seal for payment of import and export duties.

27. Rates for warehousing and receiving goods to be fixed by directors.

28. Form of warrant to be given to person lodging goods; warrant how transferable.

29. Association not to be sued except in Supreme Court.

30. Joint stock of the Association to be personalty or chattel interests, and not realty.

31,—32. Proprietors not personally liable. Claimants and decree-holders to recover only out of the property of the Association.

33. How Association may increase its capital stock.

34. Original proprietors to have option of subscribing rateably within one year for the increased capital stock.

35. Rules as to original, applicable to additional stock.

36. East India Company to have right of pre-emption in case of sale of premises purchased from them. Price how to be fixed.

38. How Association may be dissolved.

39. Disposition of property on dissolution either by Governor-General in Council or by vote.

Persons named in schedule to be members of a corporation under the name of the Bengal Bonded Warehouse Association.

I. It is hereby enacted, that the persons whose names appear in the Schedule No. 1 hereunto annexed shall, from the 14th day of March, 1838, form a corporate body for the warehousing of goods, either in bond or otherwise, by the name of the Bengal Bonded Warehouse Association.

Association how to sue and be sued—may acquire, hold and transfer any property.

II. And it is hereby enacted, that the said Association shall sue and be sued by its corporate name, and shall use such common seal as the directors of the said Association shall from time to time appoint, and may acquire, may hold absolutely, may hold by way of pledge, and may transfer any description of property whatever.

Capital to be Rs. 10,00,000, in shares, of Rs. 500 each.

III. And it is hereby enacted, that the sum of 10,00,000 Rupees, subscribed for the purposes of the said Association by the persons hereby incorporated, shall be the capital stock of the said Association, and shall be divided into 2,000 shares of 500 Rupees each, and that every one of the persons hereby incorporated shall have one share of such capital stock for every 500 Rupees which such person shall have subscribed.

Registration of names of proprietors in book open to general inspection.

IV. And it is hereby enacted, that the directors of the said Association shall cause the names, additions, and places of residence of the proprietors of shares in the said capital stock, and the number of shares held by each proprietor, to be

registered in a book, and the said shares shall in such book be numbered, begining from No. 1, and such book shall be kept at the office of said Association, and shall there be open to the inspection of all persons during the usual hours of business.

Proprietor to receive a certificate for shares signed by three Directors.

V. And it is hereby enacted, that a certificate signed by three directors of the said Association shall be delivered to every proprietor of the said capital stock, and that it shall be at the option of every proprietor of several shares to receive one certificate for all the shares of such proprietor, or one certificate for each of those shares or several certificates, each of which may be for any number of those shares.

Shares transferable by endorsement and registry.

VI. And it is hereby enacted, that any share or shares of the said capital stock may be transferred by indorsement made on the certificate for such share or shares by the proprietor of such share or shares, or by the Attorney of such proprietor duly authorized thereunto; provided always, that such indorsement shall specify the name of the party to whom the transfer is made; and provided also, that no such indorsement shall be effectual to transfer any such share or shares until such indorsement shall have been registered in a registry to be kept for that purpose at the office of the said Association, and until a note of such registration, and of the date thereof, shall have been made on the back of the indorsed certificate under the hand of an officer appointed for that purpose by the directors of the said Association.

Proprietor to be a member of corporation and to hold shares vice versâ.

VII. And it is hereby enacted, that every proprietor of a share of the said capital stock who shall cease to be a proprietor of such stock, shall cease to be a member of the corporation created by this Act; and that every person who shall become a proprietor of the said capital stock, shall become a member of the corporation created by this Act; and shall, in respect of his share or shares of the said capital stock, be under the same liabilities under which an original proprietor of the said capital stock, would be.

Business to be managed by six Directors.

VIII. And it is hereby enacted, that the business of the said Association shall be managed by six directors; and that Francis Macnaghten, Joseph Walker, Jasper Ouseley, Richard Howe Cockerell, Alexander Colvin, Joseph Willis, and James Church, Esquires, shall be the first Directors of the said Association.

Director may be removed by general meeting.

IX. And it is hereby enacted, that every Director of the said Association may be removed by a general meeting of the proprietors, and that every future Director of the said Association shall be elected by such a general meeting.

Two Directors to go out annually by rotation and not to be re-eligible for a year.

X. And it is hereby enacted, that a rotation among the Directors of the said Association shall be settled by lot, so that two of the said Directors may go out of office on the Monday following the 15th day of May in every year, and that on the Monday following the 15th day of May in every year a general meeting of proprietors shall be held, at which two Directors shall be chosen, and that no Director going out by such rotation shall be capable of being re-elected, till the Monday after the 15th of May in the year next following.

When Director shall cease to be so otherwise than by rotation, his successor to be chosen by an extraordinary general meeting.

XI. And it is hereby enacted, that if any Director of the said Association shall cease to be a Director, otherwise than by the operation of the rule of rotation aforesaid, the Directors of the said Association shall, with all convenient speed after such public notice as is hereinafter directed, call an extraordinary general meeting of the proprietors for the purpose of choosing a successor, and such successor shall come into the same place in the rotation aforesaid in which the Director whom he has succeeded was.

XII. *Repealed by Act V.* 1854.

Directors to be resident in Bengal.

XIII. And it is hereby enacted, that no person shall be capable of being a Director of the said Association, unless he be resident within the territories subject to the Presidency of Fort William in Bengal.

XIV. *Repealed by Act V.* 1854.

Ordinary meeting adjournment of.

XV. And it is hereby enacted, that any ordinary general meeting of the said Association may adjourn itself to a future day, and may, on the day to which it shall have so adjourned itself, resume its proceedings, and transact any business which it would have been competent to transact on the day when it originally assembled.

Extraordinary meeting not to be held without fourteen day's notice.

XVI. And it is hereby enacted, that extraordinary general meetings of the said Association shall be held according to such rules as may be made for that purpose in the Bye-laws of the said Association; provided always, that no such extraordinary general meeting shall be held without a previous notice of not less than fourteen days, which notice shall be published in not less than two newspapers printed at Calcutta.

Questions at general meeting to be decided by majority of votes.

XVII. And it is hereby enacted, that at general meetings of the proprietors, every election and question shall be decided by a majority of votes; and that no proprietor shall be allowed to vote, unless he be possessed of two or more shares of the capital stock of the said Association, which shares shall have been registered in his name not less than three calendar months before.

No proprietor to ave more than eight otes. Scale of voting.

XVIII. And it is hereby enacted, that at such general meetings, no proprietor shall have more than eight votes, and that the proprietors shall vote according to the following scale:

2	Shares shall entitle to	1 Vote.
4	... ...	... 2 ditto.
6	... ...	... 3 ditto.
10	... ...	... 4 ditto.
20	... ...	... 6 ditto.
35	... ...	... 7 ditto.
50	... ...	... 8 ditto.

Joint proprietors being partners to have one joint vote.

XIX. And it is hereby enacted, that if more persons than one, being partners in trade, shall be joint proprietors of two or more shares of the said capital stock, and shall agree to give a joint vote, or joint votes, such joint vote or joint votes shall be received in all respects as the vote or votes of a single proprietor would be received.

Any proprietor may ote by proxy.

XX. And it is hereby enacted, that every proprietor entitled to vote at any general meeting, may give a proxy in writing, general or special, limited or unlimited, and signed by himself or by his attorney duly authorized thereunto, to any other proprietor; and that the proprietor to whom the proxy is given, may vote on behalf of the proprietor who had given the proxy, according to the terms of such proxy.

of Direc-

XXI. And it is hereby enacted, that the Directors of the said Association shall have authority to expend the money of the said Association for the purpose of purchasing and erecting warehouses, and of warehousing and bonding goods therein, and to make and fulfil contracts for the said purpose, and to appoint and remove such servants as may be necessary for the said purpose, and generally to manage all the concerns of the said Association, subject to such rules as may be laid down in the Bye-laws of the said Association, and to keep the seal of the said Association, and to use the said seal in the affairs of the said Association; provided always, that the said seal shall never be affixed to any instrument except in the presence and by the consent of three directors, who shall sign their names on every such instrument in token of their presence and consent.

Directors may call r instalments up to 6 per cent. on each share.

XXII. And it is hereby enacted, that the Directors of the said Association shall have authority to call on the proprietors to pay such instalment or instalments as shall, together with the instalments already paid, amount to a sum not exceeding 50 per cent. on each share; and that no further call shall be made, except in consequence of a vote of a general meeting of the proprietors authorizing such further call; provided always, that no proprietor shall be called upon to pay more in proportion to his share in the capital stock than any other proprietor.

Proviso.

est at 10 per chargeable on un- d calls and may be alised out of divi- end.

XXIII. And it is hereby enacted, that if any proprietor shall not pay any instalment which he is lawfully called upon to pay in the manner described in the last Section, on the day appointed for such payment, the said Association shall have a claim against such proprietor for interest on the deficient sum, after the rate of 10 per cent. per annum; and that it shall be lawful for the Directors of the said Association to apply, in satisfaction of such instalment and of such interest, any dividend due to such proprietor, placing every dividend so applied to the credit of such proprietor with the said Association.

wer of Directors fuse to register fer of shares not up, and to sell shares.

XXIV. And it is hereby enacted, that it shall be lawful for the Directors of the said Association to refuse to register the transfer of any share belonging to any proprietor who shall not have paid such instalment and interest as aforesaid; and that in case such instalment and interest shall not be paid within two months after notice to pay the same has been given by the said Directors to such proprietor, or to his attorney or attorneys duly authorized, it shall be lawful for the said Directors to sell by public sale the share or shares of such proprietor, to such an extent as may be sufficient to satisfy such instalment and interest, and to grant upon such sale a new certificate or new certificates to the purchaser of such share or shares, whereupon the former certificate or certificates for such share or shares shall become void, and if there be any surplus after such instalment and interest have been satisfied, such surplus shall be paid on demand to the proprietor of such share or shares, and shall till demand be credited in the books of the said Association to such proprietor, but no interest shall run thereon.

Act XXV. 1836 applicable to the Warehouses of the Association.

XXV. And it is hereby enacted, that all the provisions of Act No. XXV. of 1836 of the Governor-General of India in Council, relating to private licensed warehouses, shall be applicable to all warehouses wherein the said Association shall receive bonded goods.

Association may give general security by bond under seal for payment of import and export duties.

XXVI. And it is hereby enacted, that it shall be lawful for the said Association to give general security, by bond, under the seal of the said Association for payment of the full duties of importation on goods lodged in any warehouse of the said Association, or for the due exportation of such goods; and if the said Associa-

tion shall give such bond, no security shall be required from any other party to the same effect.

XXVII. And it is hereby enacted, that the Directors of the said Association shall, from time to time, fix the rates at which the said Association will warehouse goods and receive goods at its wharfs, and that a table of such rates shall be placed at every warehouse and wharf of the said Association.

Rates for warehousing and receiving goods to be fixed by Directors.

XXVIII. And it is hereby enacted, that as often as any goods are lodged in any warehouse of the said Association, the Secretary of the said Association shall deliver a warrant signed by him as such Secretary, to the person lodging such goods, which warrant shall be as nearly as possible in the form set forth in Schedule 2, annexed to this Act, and such warrant shall be transferable by endorsement, and shall entitle any person to whom it may have been so transferred by endorsement, to receive the goods specified in such warrant, on the same terms on which the person who originally lodged those goods would have been entitled to receive the same.

Warrant transferable by endorsement signed by Secretary for goods lodged.

XXIX. And it is hereby enacted, that all suits brought against the said Association shall be brought in the Supreme-Court of Judicature at Fort William in Bengal, and not elsewhere.

Association not to be sued except in Supreme Court.

XXX. And it is hereby enacted, that all the joint stock of the said Association of what kind or description soever, and all the land, warehouses, messuages, tenements, hereditaments, premises and property acquired therewith, of which the said Association shall become in any manner possessed, entitled to, or interested in, shall be held and enjoyed by the proprietors thereof, and their successors, respectively, as personal estate, or as in the nature of chattel interests, and not as or in the nature of, real estate.

Joint stock of Association to be personalty or chattel interests, and not realty.

XXXI. And it is hereby enacted, that in order to define the liability of proprietors of shares, and to save harmless themselves and their respective heirs, executors, administrators, representatives, and assigns. no proprietor, his heirs, executors, administrators, or assigns, shall be personally liable to any person or persons whatsoever by reason of being a proprietor in any event, or for or on account of any acts, deeds, contracts, or liabilities of the said Association, or of the Directors or Secretary thereof repectively, or under or by virtue of any judgement or decree in any action or suit, but that the party or parties having any legal or equitable demand or claim for or on the account last aforesaid, or having obtained such judgment or decree as last aforesaid, shall and may only recover the amount of such demand, claim, judgment, or decree from and out of or to the whole extent of the paid up capital, accumulated funds, lands, messuages, tenements, hereditaments, and premises whatsoever, and wheresoever, which may at the time belong to the said Association, or to which they may at the time be entitled.

No proprietor to be personally liable.

XXXII. *Repealed by Act V.* 1854.

XXXIII. And it is hereby enacted, that it shall be lawful for the said Association to increase its capital stock; provided always, that no such increase shall take place unless it be authorized by a vote of two extraordinary general meetings of proprietors especially convened for that purpose, of which meetings the second shall be held not less than three calendar months after the first.

Mode of increasing Capital stock.

XXXIV. And it is hereby enacted, that in the event of such increase, the proprietors of the original stock shall not be bound to subscribe, but shall in the first instance have the option of subscribing for the increased capital stock in proportion to the share which each has of the original capital stock; and so much of the additional capital stock as shall not be subscribed for by the said proprietors of the original stock. within one year after the passing of the final resolution for the increase, shall be open to the public, and be sold for the benefit of the said Association by public sale.

Original proprietors to have option of subscribing additional capital rateably within one year.

XXXV. And it is hereby enacted, that all the rules laid down in this Act respecting the original capital stock of the said Association, shall be applicable to any additional stock which may be subscribed in the manner hereinbefore described.

Rules as to original applicable to additional, stock.

XXXVI. And it is hereby enacted, that if the said Association shall be desirous to dispose of any premises purchased by the said Association from the East India Company, the said East India Company shall have the right of pre-emption, and the price shall be fixed by two appraisers, the one named on the part of the said East India Company, and the other by the Directors of the said Association; and if the said appraisers shall not agree on a price, the price shall be fixed by an umpire named by the said appraisers.

E. I. Company to have right of pre-emption in case of sale of premises bought from them.

XXXVII. Repealed by Act V. 1854.

XXXVIII. And it is hereby enacted, that the said Association may at any time be dissolved by a resolution to that effect of two-thirds in number and value of the proprietors qualified to vote, at two successive extraordinary meetings spe-

Association how to be dissolved.

cially called for the purpose of taking into consideration the expediency of such dissolution ; provided that not less than three months shall have elapsed between the first and second of such two extraordinary meetings.

Disposition of property upon dissolution.

XXXIX. And it is hereby enacted, that whenever the dissolution of the said Association shall be ordered either by the Governor-General of India in Council, or by a vote of the said Association, the Directors of the said Association shall cause all the property of the said Association to be converted into money, and shall divide whatever surplus may remain, after satisfying the debts of the said Association, among the proprietors in proportion to the shares which the proprietors have in the capital stock of the said Association ; and after such distribution the said Association shall forthwith be dissolved.

SCHEDULE NO. 1.

LIST OF PROPRIETORS OF SHARES.

R. H. Cockerell.
W. Speir.
W. Martin.
R. Speir.
T. Speir.
J. S. Brownrigg.
J. Cockerell.
G. G. de H. Larpent.
J. St. Pourcain.
J. M. Dove.
Gungapersaud Gossain.
Ramchunder Seal.
J. Willis.
W. Earle.
D. Willis.
T. Willis.
J. Master.
G. C. S. Master, Lieut.
Trustees of Mrs. Limond's Marriage Settlement.
J. W. J. Ouseley, Capt.
G. A. Prinsep.
W. Barrington, Capt.
T. C. Robertson.
Ramdas Dey.
Bonomalee Mullick.
A. Muller.
Charles Trebeck.
T. Bowring.
J. W. Alexander.
T. B. Swinhoe.
Robert Swinhoe.
A. Dobbs.
John Watson.
James Colquhoun.
James Church.
Edward Harding.
Henry Moore.
R. Watson.
Mrs. B. Betty.
Henry Mackenzie.
Adam Scott and Co.
Holodhur Chowdry.
Charles S. Gover.
K. R. Mackenzie.
S. R. Crawford.
T. A. Shaw.
W. A. Shaw.
A. Walters.
J. Innes.
W. Adam.
Joseph Worthington.
James Cullen.
J. C. Palmer.
A. Colvin.
W. Ainslie.
H. Cowie.
T. S. Anquetil, Lieut. Col.
W. H. Martin.
A. Irvine, Major.
W. A. Peacock.
J. A Moore, Major.
T. W. Burt.
William Braddon.
Francis Macnaghten.
Carr, Tagore and Co.
W, Carr Trustee for Mrs. Dick's Marriage Settlement.
Robert Lyall.
Charles Lyall.
John Lyall.
David Lyall.
W. T. Dawes.
Colville Gilmore & Co.
Alexander Rogers.
J. H. Crawford.
A. Porteous.
J. Mackey and Co.
James Mackenzie.
P. J. Sarkies.
G. Collier.
R. Bird.
J. Ranken M. D.
Brijobullub Doss and Gocul Doss.
A. S. Stopford.
A. Beattie.
Wilson, Frith and Co.
G. C. Arbuthnot.
A. Jackson.
A. S. Gladstone.
J. Craigie, Lieut.-Col.
J. Williams.
J. B. Higginson.
Megnarain Roy.
Ramnarain Mookerjee.
Doorgachurn Mookerjee.
Gowrichurn Mookerjee.
I. B. Biss.
J. S. Biss.
Rogoonath Coondo.
W. F. Gibbon.
J. Cock.
H. F. King.
James Hill.
Taraneechurn Chatterjee.
G. Herklots, Junior.
F. O. Wells.
C. Lancaster.
C. Lancaster, Trustee for Mrs. Cornish's Marriage Settlement.
George Dougal.
John Richards.
Bruce, Shand and Co.
G. W. A. Lloyd, Lieut-Col.
W. Freeth, Captain.
J. P. Marcus.
Mrs. Bruce.
Miss. L. W. Bruce.
Joseph Bruce.
Charles C. Bruce.
Debnarain Dey.
William Bruce, Trustee for Mrs. Col. Lloyd.
W. Ryland.
M. Hughes, Captain.
Annunchunder Mitter.
J. A. Walker.
T. Hyde Gardiner.
J. C. Owen.
Moheschunder Mitter.
Prawnkisto Doss.
Conai Lal and Mukun Lal.
J. Rostan, Junior.
J. H. Rostan.
Madobchunder Sandell.
Dyalchunder Bysack.
Gopeekissen Paul.
Ditto ditto, for Mrs. A. G. Glass.
Ditto ditto, for E. B. Squire, Junior.
Doorgachurn Bose.
Bajkissore Lahory.
Gourmohun Coondoo.
S. Hornby.
Hurrischunder Bose.
Ramsoonder Mullick.
Rajchunder Dutt.

H. Barrow.
Godadhur Mitter.
E. D'Cruz.
Goluckchunder Durr.
Luckinarain Dey.
T. Blechynden.
W. Rushton.
A. J. Sturmer.
Boloram Dey.
Obhoychurn Mookerjee.
Bolychaund Bysack.
Mrs. Sarah Moss.
W. Barrett.
Hurrimohun Mookerjee.
Mohunchunder Ghose.
Hurrimohun Banerjee.
Kistnomohun Seal.
Hurrochunder Bose.
W. Stacy.
J. George.
Mrs. C. Shelverton.
C. Shelverton.
Cassinath Bonerjee.
P. S D' Rozario.
J. D'M. Sinaes, in Trust for Miss J. F. Speed.
Gorachand Bose.
J. E. Dunn.
D. W. H. Speed.
Rajkissen Dey.
Jomejoy Bose.

SCHEDULE No. II.

CALCUTTA BENGAL BONDED WAREHOUSE ASSOCIATION.

I do hereby certify that have deposited in the warehouse of the Association, the undermentioned goods which goods the Association engage on demand, after payment of rent and incidental charges and Government dues or customs chargeable thereon, to deliver to the said or their Assigns, or to the holder of this warrant to whom it may be transferred by endorsement.

——— *Secretary.*

ACT No. X. OF 1838.

Bill No. 10 of 1870 now before the Legislative Council proposes to repeal this Act.

ACT No. XXV. OF 1838.

(This Act has been repealed by Act VIII of 1868 except as to Wills made before the 1st. January 1866.)

Interpretation.

I. It is hereby enacted, that the words and expressions hereinafter mentioned shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows : (that is to say) the word "Will" shall extend to a Testament, and to a Codicil, and to an appointment by Will or by writing in the nature of a Will in exercise of a power, and also to a disposition by Will and Testament or devise of the custody and tuition of any child by virtue of an Act passed in the twelfth year of the reign of King Charles the Second, intituled ', An Act for taking away the Court of Wards and Liveries, and tenures *in capite* and by Knight's service and purveyance, and for settling a revenue upon His Majesty in lieu thereof", or by virtue of an Act passed in the Parliament of Ireland in the fourteenth and fifteenth years of the reign of King Charles the Second, intituled "An Act for taking away the Court of Wards and Liveries, and tenures *in capite* and by Knight's service," and to any other testamentary disposition; and the words "real estate" shall extend to messuages, lands, rents and hereditaments, whether corporeal, incorporeal or personal, and to any undivided share thereof, and to any estate, right or interest (other than a chattel interest) therein ; and the words "personal estate shall extend to leasehold estates and other chattels real, and also to monies, shares of Government and other funds, securities for money (not being real estates), debts, choses in action, rights, credits, goods, and all other property whatsoever which by law devolves upon the executor or administrator, and to any share or interest therein ; and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing, and every word import-

ing the masculine gender only shall extend and be applied to a female as well as a male.

Repeals certain statutes and portions of statutes.

II. And it is hereby enacted, that an Act passed in the thirty-second year of the reign of King Henry the Eighth, intituled "The Act of Wills, Wards and primer seisins, whereby a man may devise two parts of his land;" and also an Act passed in the thirty-fourth and thirty-fifth years of the reign of the said King Henry the Eighth intituled "The Bill concerning the explanations of Wills," and also an Act passed in the Parliament of Ireland in the tenth year of the reign of King Charles the First, intituled "An Act how Lands Tenements, &c. may be disposed by will or otherwise, and concerning Wards and primer seisins;" and also so much of an Act passed in the twenty-ninth year of the reign of King Charles the Second, intituled "An Act for prevention of Frauds and Perjuries;" and of an Act passed in the Parliament of Ireland in the seventh year of the reign of King William the Third, intituled "An Act for prevention of Frauds and Perjuries, as relates to devises or bequests of lands or tenements, or to the revocation or alteration of any devise in writing of any lands, tenements or hereditaments, or any clause thereof, or to the devise of any estate *pur autre vie*, or to any such estate being assets or to nuncupative Wills, or to the repeal, altering or changing of any Will in writing concerning any goods or chattels or personal estate, or any clause, devise or bequest therein; and also so much of an Act passed in the fourth and fifth years of the reign of Queen Anne, intituled "An Act for the amendment of the Law and the better advancement of Justice;" and of an Act passed in the Parliament of Ireland in the sixth year of the reign of Queen Aune, intituled "An Act for the amendment of the Law and the better advancement of Justice" as relates to witnesses to nuncupative Wills; and so far as the following Acts may be construed to have any operation within the territories of the East India Company, so much of an Act passed in the fourteenth year of the reign of King George the Second, intituled "An Act to amend the Law concerning common recoveries," and to explain and amend an Act made in the twenty-ninth year of the reign of King Charles the Second, intituled "An Act for prevention of Frauds and Perjuries," as relates to estates *pur autre vie*; and also an Act passed in the twenty-fifth year of the reign of King George the Second, intituled "An Act for avoiding and putting an end to certain doubts and questions relating to the attestation of Wills and Codicils concerning real estates in that part of Great Britain called England, and in His Majesty's colonies and plantations in America," except so far as relates to his Majesty's colonies and plantations in America, and also an Act passed in the Parliament of Ireland in the same twenty-fifth year of the reign of King George the Second, intituled "An Act for the avoiding and putting an end to certain doubts and questions relating to the attestations of Wills and Codicils concerning real estates;" shall from the passing of this Act cease to have effect in the territories of the East India Company, except so far as the same Acts or any of them respectively relate to any Wills or estates *pur autre vie* to which this Act does not extend.

Act only to extend to Wills of persons whose property cannot pass to their representatives without probate or letters of administration.

All property, and all interest therein, may be disposed of by Will.

III. And it is hereby enacted, that this Act shall only extend to the Wills of persons whose personal property cannot by the law of England pass to their representatives without Probate or Letters of Administration obtained in one of Her Majesty's Supreme Courts of Judicature, and that the Statutes and parts of Statutes aforesaid are only repealed as far as they relate to the succession to the property of such person.

IV. And it is hereby enacted, that it shall be lawful for every person to devise, bequeath or dispose of by his Will, executed in manner hereinafter required, all real estate and all personal estate which he shall be intitled to, either at law or in equity, at the time of his death, and which, if not so devised, bequeathed or disposed of, would devolve upon the heir at law of him, or, if he became entitled by descent, of his ancestor, or upon his executor or administrator, and that the power hereby given shall extend to all estates *pur autre vie*, whether there shall or shall not be any special occupant thereof, and whether the same shall be a corporeal or an incorporeal hereditament, and whether the same shall be freehold or of any other tenure, and also to all contingent, executory or other future interests in any real or personal estate, whether the testator may or may not be ascertained as the person or one of the persons in whom the same respectively may become vested, and whether he may be intitled thereto under the instrument by which the same respectively were created, or under any disposition thereof by deed or Will; and also to all rights of entry for conditions broken, and other rights of entry, and also to such of the same estates, interests, and rights respectively, and other real and personal estates as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his Will.

ation, inter- or other al- made after n of Will in- less signed by tor and attested.

XVII. And it is hereby enacted, that no obliteration, interlineation or other alteration made in any Will after the execution thereof, shall be valid or have any effect, except so far as the words or effect of the Will before such alteration shall not be apparent, unless such alteration shall be executed in like manner as hereinbefore is required for the execution of the Will; but the Will, with such alteration as part thereof, shall be deemed to be duly executed, if the signature of the testator and the subscription of the witnesses be made in the margin or some other part of the Will opposite or near to such alteration, or at the foot or end of or opposite or near to such alteration, or at the foot or end of or opposite to a memorandum referring to such alteration, and written at the end or some other part of the Will.

once, revoked only be revived by ecution or by il.

XVIII. And it is hereby enacted, that no Will or Codicil or any part thereof, which shall be in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a Codicil executed in a manner hereinbefore required, and shewing an intention to revive the same; and when any Will or Codicil which shall be partly revoked and afterwards wholly revoked shall be revived, such revival shall not extend to so much thereof as shall have been revoked before the revocation of the whole thereof, unless an intention to the contrary be shown.

nveyance or Act done subse- ntly to execution Will not to prevent operation on pro- rty disposable by tator at the time his death.

XIX. And it is hereby enacted, that no conveyance or other act made or done subsequently to the execution of a Will of or relating to any real or personal estate therein comprised, except an act by which such Will shall be revoked as aforesaid, shall prevent the operation of the Will with respect to such estate or interest in such real or personal estate as the testator shall have power to dispose of by Will at the time of his death.

ll to be con- d as if executed mediately before death. Exception.

XX. And it is hereby enacted, that every Will shall be construed, with reference to the real estate and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention shall appear by the Will.

Property comprised in any devise which is incapable of taking effect, to be included in the residuary devise.

XXI. And it is hereby enacted, that, unless a contrary intention shall appear by the Will, such real estate and interest therein as shall be comprised or intended to be comprised in any devise in such Will contained, which shall fail or be void by reason of the death of the devisee in the lifetime of the testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise (if any) contained in such Will.

General devise &c., to operate as in execution of any general power of testator to appoint. Exception.

XXII. And it is hereby enacted, that a general devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his Will, or otherwise described in a general manner, shall be construed to include any real estate, or any real estate to which such description shall extend (as the case may be) which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will; and in like manner a bequest of the personal estate of the testator, or any bequest of personal estate, described in a general manner, shall be construed to include any personal estate or any personal estate to which such description shall extend (as the case may be) which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention shall appear by the Will.

Devise without limitation expressed, shall pass the whole state.

XXIII. And it is hereby enacted, that where any real estate shall be devised to any person without any words of limitation, such devise shall be construed to pass the fee simple, or other the whole estate or interest which the testator had power to dispose of by Will in such real estate, unless a contrary intention shall appear by the Will.

Construction of words importing a want or failure of issue.

XXIV. And it is hereby enacted, that in any devise or bequest of real or personal estate the words "die without issue," or "die without leaving issue," or any other words which may import either a want or failure of issue of any person in his lifetime or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the life time or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the Will, by reason of such person having a prior estate tail, or of a preceding gift being, without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise; provided, that this Act shall not extend to cases where such words as aforesaid import, if no issue described in a preceding gift shall be born, or if there shall be no issue who shall live to attain the age or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue

V. And it is hereby enacted, that no Will made by any person under the age of twenty-one years shall be valid.

Will of In[illegible] to be valid.

VI. Provided also, and it is hereby enacted, that no Will made by any married woman shall be valid, except such a Will as might have been made by a married woman before the passing of this Act.

No Will of [illegible] woman to be v[illegible] cept such as sh[illegible] have made before [illegible] Act.

VII. And it is hereby enacted, that no Will shall be valid unless it shall be in writing and executed in manner hereinafter mentioned ; (that is to say,) it shall be signed at the foot or end thereof by the testator or by some other person in his presence and by his direction, and such signature shall be made or acknowledged by the testator as the signature to his Will or Codicil in the presence of two or more withnesses present at the same time, and such witnesses shall subscribe the Will in the presence of the testator, but no form of attestation shall be necessry.(*a*)

Mode of execu[illegible] of Will.

VIII. And it is hereby enacted, that no appointment made by Will in exercise of any power shall be valid, unless the same be executed in manner hereinbefore required; and every Will executed in manner hereinbefore required shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by Will, notwithstanding that it shall have been expressly required that a Will made in exercise of such power shall be executed with some additional or other form of execution or solemnity.

Appointment [illegible] Will to be execu[illegible] Will.

IX. And it is hereby enacted, that every Will executed in manner hereinbefore required shall be valid, without any other publication thereof.

Will so execu[illegible] need not be publishe[illegible]

X. And it is hereby enacted, that if any person who shall attest the execution of a Will shall, at the time of the execution thereof, or at any time afterwards, be incompetent to be admitted a witness to prove the execution thereof, such Will shall not on that account be invalid.

Will not render [illegible] invalid by person a[illegible] testing it being or b[illegible] coming incompetent [illegible] a witness to prove.

XI. And it is hereby enacted, that if any person shall attest the execution of of any Will, to whom or to whose wife or husband any beneficial devise, legacy, estate, interest, gift or appointment of or affecting any real or personal estate (other than and except charges and directions for the payment of any debt or debts) shall be thereby given or made, such devise, legacy, estate, interest, gift or appointment shall, so far only as concerns such person attesting the execution of such Will, or the wife or husband of such person, or any person claiming under such person or wife or husband, be null and void : and such person so attesting shall be admitted as a witness to prove the execution, or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift or appointment mentioned in such Will.

Devise legacy &c. [illegible] attesting witness or to his or her wife, or husband to be void.

XII. And it is hereby enacted, that in case by any Will any real or personal estate shall be charged with any debt or debts, and any creditor, or the wife or husband of any creditor, whose debt is so charged shall attest the execution of such Will, such creditor, notwithstanding such charge, shall be admitted a witness to prove the execution of such Will, or to prove the validity or invalidity thereof.

Will containing a charge for debt of attesting witness may nevertheless be proved by him.

XIII. And it is hereby enacted, that no person shall, on account of his being an executor of a Will, be incompetent to be admitted a witness to prove the execution of such Will, or a witness to prove the validity or invalidity thereof.

Executor competent as a witness to prove Will.

XIV. And it is hereby enacted, that every Will made by a man or woman shall be revoked by his or her marriage (except a Will made in exercise of a power of appointment, when the real or personal estate thereby appointed would not in default of such appointment pass to his or her heir, executor or administrator, or the person entitled as his or her next of kin, under the Statute of Distributions).

Will revoked by subsequent marriage of party making it. Exception.

XV. And it is hereby enacted, that no Will shall be revoked by any presumption of an intention on the ground of an alteration in circumstances.

No presumption of intention to revoke Will from alteration in circumstances.

XVI. And it is hereby enacted, that no Will or Codicil or any part thereof shall be revoked otherwise than as aforesaid, or by another Will or Codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a Will is hereinbefore required to be executed, or by the burning, tearing or otherwise destroying the same by the testator, or by some person in his presence and by his direction, with the intention of revoking the same.

Will or Codicil, how revokable.

(*a*) The following is the usual form of attestation, and is of this use, that in its absence the Court requires extraneous proof of the circumstances stated in the form :—"Signed by the above-named A. B. [the testator] in the presence of us, present at the same time, who have hereunto signed our names as witnesses thereto, in the presence of the said A. B. testator] and in the presence of each other."

Names of witnesses { C. D. / E. F.

[illegible] led

XXV. And it is hereby enacted, that, where any real estate shall be devised to any trustee or executor, such devise shall be construed to pass the fee simple or other the whole estate or interest which the testator had power to dispose of by Will in such real estate, unless a definite term of years absolute or determinable, or an estate of freehold, shall thereby be given to him expressly or by implication.

Devise of real estate to any trustee or executor to be construed to pass the whole estate. Exception.

XXVI. And it is hereby enacted, that where any real estate shall be devised to a trustee without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate, or in the surplus rents and profits thereof, shall not be given to any person for life, or such beneficial interest shall be given to any person for life, but the purposes of the trust may continue beyond the life of such person, such devise shall be construed to vest in such trustee the fee simple, or other the whole legal estate which the testator had power to dispose of by Will in such real estate, and not an estate determinable when the purposes of the trust shall be satisfied.

Devise of real estate to trustee without express limitation to pass fee simple or whole estate, where the purposes of the trust may continue beyond the life of the first cestui que trust.

XXVII. And it is hereby enacted, that where any person to whom any real estate shall be devised for an estate tail, or an estate in quasi entail, shall die in the lifetime of the testator, leaving issue who would be inheritable under such entail, and any such issue shall be living at the time of the death of the testator, such devise shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

Where devisee of estate tail dies during testator's lifetime, but leaves inheritable issue alive at testator's death, devise shall not lapse.

XXVIII. And it is hereby enacted, that where any person, being a child or other issue of the testator to whom any real or personal estate shall be devised or bequeathed for any estate or interest not determinable at or before the death of such person, shall die in the lifetime of the testator leaving issue, and any such issue of such person shall be living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention shall appear by the Will.

Devise &c. to issue of testator dying in testator's lifetime, but leaving issue alive at testator's death, not to lapse.

XXIX. And it is hereby enacted, that notwithstanding anything in this Act contained, any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the making of this Act.

Act not to affect Wills of Soldiers or Seamen in certain cases.

XXX. And it is hereby enacted, that nothing in this Act contained shall be construed to repeal the provisions of Act No. XX. of 1837, whereby immoveable property situate within the jurisdiction of the Court of Judicature of Prince of Wales' Island, Singapore and Malacca, transmitted by the last Will of any person having a beneficial interest in the same, is taken to be and to have been of the nature of chattels real and not of freehold as regards such transmission, provided that such Will shall be executed and construed as a Will of chattels real is to be executed and construed by virtue of this Act.

Nor to repeal Act XX. 1837.

XXXI. And it is hereby enacted, that this Act shall not extend to any Will made before the first day of February, in the year of our Lord 1839, and that every Will re-executed or re-published or revived by any Codicil shall, for the purposes of this Act, be deemed to have been made at the time at which the same shall be so re-executed, re-published, or revived; and that this Act shall not extend to any estate *pur autre vie* of any person who shall die before the first day of February in the year of our Lord 1839.

Nor to extend to Wills made before 1st Feb., 1839. But Will re-executed, republished or revived by Codicil to date from such re-execution &c.

Act NO. XXXI. OF 1838.

(The whole of this Act except Sections 30 and 31 has been repealed by Act VIII of 1868.)

XXX. And it is hereby enacted, that every sum of money which shall be forfeited for the amount of any injury done (such amount in each case to be assessed by the convicting Magistrate or Justice of the Peace) shall be paid to the party aggrieved, if known, except when such party shall have been examined in proof of the offence, and that in every case of a summary conviction under this Act, when the sum which shall be forfeited for the amount of the injury done, or which shall be imposed as a penalty by the Magistrate or Justice of the Peace,

Fine in certain cases to be paid to party aggrieved, if known, and not a witness. Penalty, if fine be not paid.

shall not be paid, either immediately after the conviction or within such period as the Magistrate or Justice of the Peace shall, at the time of conviction, appoint, it shall be lawful for the convicting Magistrate or Justice of the Peace to commit the offender to the common Gaol or House of Correction to be imprisoned only, or to be imprisoned with hard labor according to the discretion of the Magistrate or Justice of the Peace, for any term not exceeding two calendar months, where the amount of the sum forfeited, or of the penalty imposed, or of both (as the case may be), together with the costs, shall not exceed 50 Rupees, and for any term not exceeding four calendar months when the amount with costs shall not exceed 100 Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid upon payment of the amount and costs.

Party aggrieved not receive more than sum equivalent to age.

XXXI. Provided always, that where several persons shall join in the commission of the same offence, and shall, upon conviction thereof, each be adjudged to forfeit a sum equivalent to the amount of the injury done, in every such case no further sum shall be paid to the party aggrieved than that which shall be forfeited by one of such offenders only.

ACT NO. XXXII. OF 1838.

I. Vests in one Justice for Bengal, Behar, and Orissa, all powers heretofore exercised by two Justices.

I. It is hereby enacted and declared, that all powers whatever in criminal cases, which by virtue of any law now in force may be exercised by two Justices of the Peace within and for the provinces, districts, and countries of Bengal, Behar, and Orissa, and within and for the Presidency of Fort William in Bengal, and places thereto subordinate, may be exercised by one such Justice.

(Bill No. 8 now before the Legislative Council proposes to repeal the remaining two Sections of this Act.)

ACT No. XXII. OF 1839.

1 to 3. Repealed.

4. Persons under trial to have the right of inspecting without fee all depositions taken against them.

I. And it is hereby enacted, that all persons under trial in any of Her Majesty's Courts of Justice, shall be entitled, at the time of their trial, to inspect, without fee or reward all depositions, or copies thereof, which have been taken against them, and returned into the Court before which such trial shall be held.

Persons under trial entitled to inspect depositions at the time of trial.

ACT No. XXVII. OF 1839.

The Court of Requests for the Town of Calcutta may, on written application from the Judge of the 24 Pergunnahs, accompanied by copy of decree, execute against a judgment-debtor who shall have retired into its jurisdiction, any decree of a Civil Court of that district, if the cause of action would have been cognisable by it, had it occurred within its own jurisdiction.

An act for authorizing the Court of Requests for the town of Calcutta to execute decrees passed by the Judge of the Dewanny Adawlut of the zillah of the 24-Pergunnahs in certain cases.

Whereas execution of the decrees of the Courts of Justice of the zillah of the 24-Pergunnahs is often defeated by the parties against whom the same have been obtained, absconding from the limits of the said zillah into the town of Calcutta; and whereas by Regulation XVI. of 1812 of the Bengal Code, provision is made, where the like inconvenience occurs by parties absconding from the town of Calcutta into the said zillah, for the Judge of the said zillah enforcing the judgments of the Court of Requests of the town of Calcutta:

It is hereby enacted, that if the defendant in any suit decided by any Court of Justice of the zillah of the 24-Pergunnahs, the plaintiff in which shall have obtained a decree, shall retire before execution of the same into the jurisdiction of the Court of Requests, that Court, upon receiving written application from the Judge of Dewanny Adawlut, of the zillah of the 24-Pergunnahs, setting forth the above circumstances, and accompanied by a copy of the decree duly authenticated, is hereby authorized and directed to proceed to execute the said decree in the mode prescribed for the execution of judgments obtained in the Court of Request, and on payment of the like costs as are demanded for the execution of such Judgments in ordinary cases. Provided always, that nothing in this Act contained shall be held to authorize the said Court of Requests to execute any decree, except the cause of action in respect of which such decree was obtained, were such, that if it had occurred within the local jurisdiction of the said Court, would have been cognizable by the same.

ACT No. XXIX. OF 1839.

This Act has been repealed, by Act VIII. of 1868, except as to marriages contracted before the 1st January 1866.

An Act for the amendment of the law relating to dower.

I. Whereas it is expedient to extend the amendments in the English Law of dower contained in the Statute 3rd and 4th William IV. Chapter 105 to the territories of the East India Company in cases which, but for the passing of this Act, would be governed by the English Law of dower as it existed previously to the passing of the aforesaid Statute:

Preamble and interpretation.

It is hereby enacted, that the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows; that is to say, the

word "land" shall extend to messuages, and all other hereditaments, whether corporeal or incorporeal (except such as are not liable to dower), and to any share thereof, and every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing.

Widows entitled to dower out of equitable estates, in land.

II. And it is hereby further enacted, that when a husband shall die, beneficially entitled to any land for an interest which shall not entitle his widow to dower out of the same at law, and such interest, whether wholly equitable, or partly legal and partly equitable, shall be an estate of inheritance in possession, or equal to an estate of inheritance in possession, (other than an estate in joint-tenancy), then his widow shall be entitled in Equity to dower out of the same land.

Whether the husband had recovered possession or not.

III. And it is hereby further enacted, that when a husband shall have been entitled to a right of entry or action in any land and his widow would be entitled to dower out of the same if he had recovered possession thereof, she shall be entitled to dower out of the same, although her husband shall not have recovered possession thereof; provided that such dower be sued for or obtained within the period during which such right of entry or action might be enforced.

Proviso.

But not out of land absolutely disposed of by her husband in his lifetime or by Will.

IV. And it is hereby further enacted, that no widow shall be entitled to dower out of any land which shall have been absolutely disposed of by her husband in his lifetime, or by his Will.

Partial estates, interests and charges &c. upon the land created by act of husband, valid against widow's right to dower.

V. And it is hereby further enacted, that all partial estates and interests, and all charges created by any disposition or Will of a husband, and all debts, incumbrances, contracts, and engagements to which his land shall be subject or liable, shall be valid and effectual as against the right of his widow to dower.

Dower barred by declaration of husband in deed of conveyance &c.

Or in his Will.

VI. And it is hereby further enacted, that a widow shall not be entitled to dower out of any land of her husband, when in the deed by which such land was conveyed to him, or by any deed executed by him, it shall be declared that his widow shall not be entitled to dower out of such land.

VII. And it is hereby further enacted, that a widow shall not be entitled to dower out of any land of which her husband shall die wholly or partially intestate when by the Will of her husband, duly executed for the devise of freehold estates, he shall declare his intention that she shall not be entitled to dower out of such land or out of any of his land.

Right to dower subject to conditions and restrictions declared in the Will.

VIII. And it is hereby further enacted, that the right of a widow to dower shall be subject to any conditions, restrictions or directions which shall be declared by the Will of her husband duly executed as aforesaid.

Devise of real estate to bar right of dower.

IX. And it is hereby further enacted, that where a husband shall devise any land out of which his widow would be entitled to dower if the same were not so devised, or any estate or interest therein, to or for the benefit of his widow, such widow shall not be entitled to dower out of or in any land of her said husband, unless a contrary intention shall be declared by his Will.

Gift or bequest out of personalty, or land not liable to dower not to bar right of dower.

X. And it is hereby further enacted, that no gift or bequest made by any husband to or for the benefit of his widow of or out of his personal estate, or of or out of any of his land not liable to dower shall defeat or prejudice her right to dower unless a contrary intention shall be declared by his Will

Covenant or agreement of husband not to bar dower may be enforced by Court of Equity.

XI. Provided always and it is hereby further enacted, that nothing in this Act contained shall prevent any Court of Equity from enforcing any covenant or agreement entered into by or on the part of any husband not to bar the right of his widow to dower out of his lands or any of them.

Rule of Equity or Ecclesiastical Court giving priority to legacies in satisfaction of dower, not interfered with.

XII. And it is hereby further enacted, that nothing in this Act contained shall interfere with any rule of Equity, or of any Ecclesiastical Court by which legacies bequeathed to widows in satisfaction of dower are entitled to priority over other legacies.

Widow no longer entitled to Dower ad ostium ecclesiae or ex assensu partris.

XIII. And it is hereby further enacted, that no widow shall hereafter be entitled to dower *ad ostium ecclesiæ* or dower *ex assensu patris*.

Act not to extend to dower of widows married, or Wills, &c executed before 1st, January 1840.

XIV. And it is hereby further enacted, that this Act shall not extend to the dower of any widow who shall have been or shall be married on or before the first day of July one thousand eight hundred and forty, and shall not give to any Will, Deed, Contract, engagement or charge executed, entered into, or created before the said first day of July, one thousand eight hundred and forty, the effect of defeating or prejudicing any right to dower.

Extent of application of Act.

XV. And it is hereby provided, that this Act shall not be construed to affect any right of property in land otherwise than by modifying the Law of Dower in cases governed by the English Law of Dower, or to extend or alter the jurisdiction of any of Her Majesty's Courts of Justice.

ACT No. XXX. OF 1839.

This Act has been repealed by Act VIII of 1868 except as to intestacies which occurred before the 1st Jan. 1866.

An Act for the amendment of the Law of Inheritance.

I. Whereas it is expedient to extend the amendments in the English Law of Inheritance contained in the Statute 3rd and 4th, William IV. Chapter 106 to the territories of the East India Company in cases which, but for the passing of this Act, would be governed by the English Law of Inheritance as it existed previously to the passing of the aforesaid Statute :

It is hereby enacted, that the words and expressions hereinafter mentioned, which in their ordinary signification have a more confined or a different meaning, shall in this Act, except where the nature of the provision or the context of the Act shall exclude such construction, be interpreted as follows ; (that is to say,) the word "land" shall extend to messuages, and all other hereditaments, whether corporeal or incorporeal, and whether freehold or of any other tenure, and to money to be laid out in the purchase of land, and to chattels and other personal property transmissible to heirs, and also to any share of the same hereditaments and properties or any of them, and to any estate of inheritance or estate for any life or lives, or other estate transmissible to heirs, and to any possibility, right, or title of entry or action, and any other interest capable of being inherited, and whether the same estates, possibilities, rights, titles, and interests, or any of them, shall be in possession, reversion, remainder, or contingency ; and the words "the purchaser" shall mean the person who last acquired the land otherwise than by descent, or than by any escheat, partition, or enclosure, by the effect of which the land shall have become part of or descendible in the same manner as other land acquired by descent ; and the word "descent" shall mean the title to inherit land by reason of consanguinity, as well where the heir shall be an ancestor or collateral relation, as where he shall be a child or other issue ; and the expression "descendants" of any ancestor shall extend to all persons who must trace their descent through such ancestor ; and the expression "the person last entitled to land" shall extend to the last person who had a right thereto, whether he did or did not obtain the possession or the receipt of the rents and profits thereof ; and the word "assurance" shall mean any deed or instrument other than a Will by which any land shall be conveyed or transferred at law or in equity ; and every word importing the singular number only, shall extend and be applied to several persons or things as well as one person or thing, and every word importing the masculine gender only, shall extend and be applied to a female as well as a male.

II. And it is hereby further enacted, that in every case, descent shall be traced from the purchaser, and to the intent, that the pedigree may never be carried further back than the circumstances of the case and the nature of the title shall require, the person last entitled to the land shall, for the purposes of this Act, be considered to have been the purchaser thereof, unless it shall be proved that he inherited the same, in which case the person from whom he inherited the same shall be considered to have been the purchaser, unless it shall be proved that he inherited the same, and in like manner the last person from whom the land shall be proved to have been inherited shall in every case be considered to have been the purchaser, unless it shall be proved that he inherited the same.

III. And it is hereby further enacted, that when any land shall have been devised by any testator who shall die after the first day of July, one thousand eight hundred and forty, to the heir or to the person who shall be the heir of such testator, such heir shall be considered to have acquired the land as a devisee and not by descent ; and when any land shall have been limited by any assurance executed after the said first day of July, one thousand eight hundred and forty, to the person or the heirs of the person who shall thereby have conveyed the same land, such person shall be considered to have acquired the same as a purchaser by virtue of such assurance, and shall not be considered to be entitled thereto as his former estate or part thereof.

IV. And it is hereby further enacted, that when any person shall have acquired any land by purchase under a limitation to the heir or to the heirs of the body of any of his ancestors, contained in an assurance executed after the said first day of July one thousand eight hundred and forty, or under a limitation to the heir or to the heirs of the body of any of his ancestors, or under any limitation having same effect, contained in a Will of any testator who shall depart this life after the said first day of July, one thousand eight hundred and forty,

then and in any of such cases such land shall descend, and the descent thereof shall be traced, as if the ancestor named in such limitation had been the purchaser of such land.

V. And it is hereby further enacted, that no brother or sister shall be considered to inherit immediately from his or her brother or sister, but every descent from a brother or sister shall be traced through the parent.

VI. And it is hereby further enacted, that every lineal ancestor shall be capable of being heir to any of his issue, and in every case where there shall be no issue of the purchaser his nearest lineal ancestor shall be his heir in preference to any person who would have been entitled to inherit, either by tracing his descent through such lineal ancestor, or in consequence of there being no descendent of such lineal ancestor, so that the father shall be preferred to a brother or sister, and a more remote lineal ancestor to any of his issue, other than a nearer lineal ancestor or his issue.

VII. And it is hereby further enacted and declared, that none of the maternal ancestors of the person from whom the descent is to be traced, nor any of their descendants shall be capable of inheriting until all his paternal ancestors and their descendants shall have failed; and also that no female paternal ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male paternal ancestors and their descendants shall have failed; and that no female maternal ancestor of such person, or any of her descendants, shall be capable of inheriting until all his male maternal ancestors and their descendants shall have failed.

VIII. And it is hereby further enacted and declared, that where there shall be a failure of male paternal ancestors of the person from whom the descent is to be traced, and their descendants, the mother of his more remote male paternal ancestors, or her descendants, shall be the heir or heirs of such person, in preference to the mother of a less remote male paternal ancestor, or her descendants; and where there shall be a failure of male maternal ancestors of such person, and their descendants, the mother of his more remote male maternal ancestor, and her descendants, shall be the heir or heirs of such person in preference to the mother of a less remote male maternal ancestor, and her descendants.

IX. And it is hereby further enacted, that any person related to the person from whom the descent is to be traced by the half blood shall be capable of being his heir, and the place in which any such relation by the half blood shall stand in the order of inheritance, so as to be entitled to inherit, shall be next after any relation in the same degree of the whole blood, and his issue, where the common ancestor shall be a male, and next after the common ancestor where such common ancestor shall be a female, so that the brother of the half blood on the part of the father shall inherit next after the sisters of the whole blood on the part of the father and their issue, and the brother of the half blood on the part of the mother shall inherit next after the mother.

X. And it is hereby further enacted, that when the person from whom the descent of any land is to be traced shall have had any relation, who, having been attainted, shall have died before such descent shall have taken place, then such attainder shall not prevent any person from inheriting such land who would have been capable of inheriting the same by tracing his descent through such relation if he had not been attainted, unless such land shall have escheated in consequence of such attainder before the first day of July, one thousand eight hundred and forty.

XI. And it is hereby further enacted, that this Act shall not extend to any descent which shall take place on the death of any person who shall die before the said first day of July, one thousand eight hundred and forty.

XII. And it is hereby futher enacted, that where any assurance executed before the said first day of July, one thousand eight hundred and forty, or the Will of any person who shall die before that time, shall contain any limitation or gift to the heir or heirs of any person under which the person or persons answering the description of heir shall be entitled to an estate by purchase, then the person or persons who would have answered such description of heir if this Act had not been made, shall become entitled by virtue of such limitation or gift, whether the person named as ancestor shall or shall not be living at the time aforesaid.

XIII. And it is hereby provided, that this Act shall not be construed to affect inheritances of land, which are not subject to the English Law of Inheritance, or to extend or alter the jurisdiction of any of her Majesty's Courts of Justice.

ACT No. XXXII. OF 1839.

Empowers the Courts to allow interest not exceeding the current rate on debts etc. from due date, if fixed by written instrument; or otherwise, from date of demand of payment and notice that interest will be claimed.

AN Act concerning the allowance of interest in certain cases.

Whereas it is expedient to extend to the territories under the government of the East India Company, as well within the jurisdiction of Her Majesty's Courts as elsewhere, the provisions of the Statute 3rd and 4th William IV. Chapter 42, Section 28, concerning the allowance of interest in certain cases:

It is. therefore, hereby enacted, that upon all debts or sums certain payable at a certain time or otherwise, the Court before which such debts or sums may be recovered, may, if it shall think fit, allow interest to the creditor at a rate not exceeding the current rate of interest from the time when such debts or sums certain were payable, if such debts or sums be payable by virtue of some written instrument at a certain time; or if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor, that interest will be claimed from the date of such demand until the term of payment; provided that interest shall be payable in all cases in which it is now payable by law.

ACT No. V. OF 1840.

1—4. Except in cases of declarations under Act XXI. of 1837, Hindoos and Mahomedans may make affirmation in lieu of oath or declaration now in use. Act not to extend to her Majesty's Courts of Justice.

AN Act concerning the oaths and declarations of Hindoos and Mahomedans

I. Whereas obstruction to justice and other inconveniences have arisen in consequence of persons of the Hindoo or Mahomedan persuasion being compelled to swear by the water of the Ganges, or upon the Koran, or according to other forms which are repugnant to their consciences or feelings ;

It is hereby enacted, that except as hereinafter provided, instead of any oath or declaration now authorized or required by law, every individual of the classes aforesaid within the territories of the East India Company shall make affirmation to the following effect ;

" I solemnly affirm, in the presence of Almighty God, that what I shall state shall be the truth, the whole truth, and nothing but the truth."

II. Repealed by Act XVII. 1862.

III. Repealed by Act XVII. 1862.

IV. And it is hereby provided, that this Act shall not extend to any declaration made under the authority of Act No. XXI. of 1837, nor to any declaration or affirmation made in any of Her Majesty's Courts of Justice.*

ACT No. VI. 1840.

1. The acceptor of a Bill of Exchange payable at any other place than his own place of residence, must, in order to render the acceptance qualified, express therein that the bill is payable at a specific place only, and not otherwise or elsewhere.

2. Acceptance valid only when written on the bill or one of its parts.

3. Bill accepted supra protest for honor, when to be presented to the acceptor for honor.

4. Bill expressed as payable in any place other than place of residence of drawee may be immediately protested for non-payment in the place in which it was made payable.

5. Usurious consideration etc. not to void bill etc, in the hand of an indorsee for valuable consideration without notice given at time of discounting.

6. Limit of application of Act.

The acceptor of a Bill of Exchange payable at any other place than his own place of residence, must, to render the acceptance qualified, express therein that the bill is payable at a specific place only, and not otherwise or elsewhere.

An Act for the amendment of the law concerning the negociation of Bills of Exchange.

I. Whereas it is expedient to extend to the territories under the government of the East India Company the amendments of the law respecting Bills of Exchange contained in the Statutes 58 Geo. 3, Cap. 93.—1 and 2 Geo. 4, Cap. 78.—6 and 7 W. 4, Cap. 58.—2 and 3 W. 4, Cap, 98 ;

It is hereby enacted, that from and after the first day of May, in the year of our Lord 1840, if any person shall accept a Bill of Exchange payable at any other place than at his own place of residence without further expression in his acceptance, such acceptance shall be deemed and taken to be, to all intents and purposes, a general acceptance. But if the acceptor shall, in his acceptance, express that he accepts the Bill payable at such other place only, and not otherwise or elsewhere, such acceptance shall be deemed and taken to be to all intents and purposes a qualified acceptance of such bill, and the acceptor shall not be liable to pay such bill except in default of payment, when such payment shall have been duly demanded at such other place.

* These words, however, do not apply to Courts of Justices of the Peace, See Act II 184

II. And it is hereby enacted, that after the day and year aforesaid, no acceptance of any Bill of Exchange drawn within the territories of the East India Company shall be sufficient to charge any person, unless such acceptance be in writing on such bill, or, if there be more than one part of such bill, on one of the said parts.

Acceptance valid only when written on the bill or one of its parts.

III. And it is hereby enacted, that it shall not be necessary to present Bills of Exchange accepted supra protest for honor, or having a reference thereon in a case of need to the acceptors for honor, or to the referee or referees, until the day following the day on which such Bills of Exchange shall become due, and if the place of address on any such Bill of Exchange of such acceptor or acceptors for honor, or of such referee or referees, be other than where such bill shall therein be made payable, then it shall not be necessary to forward such Bill of Exchange for presentment for payment to such acceptor or acceptors for honor, or referee or referees, until the day following the day on which such Bill of Exchange shall become due.

Bill accepted supra protest for honor, when to be presented to the acceptor for honour.

IV. And it is hereby enacted, that all Bills of Exchange, wherein the drawer or drawers thereof shall have expressed that such Bills of Exchange are to be payable in any place other than the place by him or them therein mentioned to be the place of residence of the drawee or drawees thereof, and which shall not on presentment thereof be accepted, shall or may be, without further presentment to the drawee or drawees, protested for non-payment in the place in which such Bills of Exchange shall have been by the drawer or drawers expressed to be payable, unless the amount owing upon such Bills of Exchange shall have been paid to the holder or holders thereof on the day on which such Bill would have become payable had the same been duly accepted.

Bill expressed as payable in any place other than place of residence of drawee may be immediately protested for non-payment in the place in which it was mad payable.

V. And it is hereby enacted, that no Bill of Exchange or Promissory Note that shall be drawn or made after the passing of this Act shall, though it may have been given for a usurious consideration, or upon a usurious contract, be void in the hands of an indorsee for valuable consideration, unless such indorsee had, at the time of discounting or paying such consideration for the same, actual notice that such Bill of Exchange or Promissory Note had been originally given for a usurious consideration, or upon a usurious contract.

Usurious consideration etc. not to void in the hand of an indorsee a bill for valuable consideration without notice given at time of discounting.

VI. And it is hereby provided, that this Act shall not be construed to extend to affect Bills of Exchange or Promissory Notes in any case which, but for the passing of this Act, would not be governed by the law of England, or to extend or alter the jurisdiction of any of her Majesty's Courts of Justice.

Limit of application of Act.

ACT NO. IX. OF 1840.

The whole of this Act except Section 2 has been repealed Act by VIII. of 1868.

II. And it is hereby enacted, that the Court, on the trial of any issue, or on any inquiry of damages, in any suit before any of Her Majesty's Courts of Justice may, if it shall think fit, give damages in the nature of interest over and above the value of the goods at the time of the conversion or seizure, in all actions of trover or trespass *de bonis asportatis*, and over and above the money recoverable in all actions on policies of assurance made after the passing of this Act.

In certain actions the Court may decree interest as well as damages.

ACT NO. X. OF 1840.

1. Repealed.

2. Superintendence and management of the temple of Juggernath to continue vested in the Rajah of Khoordah. Proviso.

3. Voluntary offerings only to be received.

4. Repealed.

An Act for the abolition of certain pilgrim taxes, and for the superintendence of the temple of Juggernath.

I. (Repealed by Act VIII. of 1868)

Superintendence and management of the temple of Juggernath to continue vested in the Rajah of Khoordah.

Proviso.

II. And it is hereby enacted, that the superintendence of the temple of Juggernath, and its interior economy, the conduct and management of its affairs, and the control over the priests, officers, and servants attached to the temple shall continue vested in the Rajah of Khoordah for the time being; provided always that the said Rajah and all persons connected with the said temple shall on all occasions be guided by the recorded rules and institutions of the temple, or by ancient and established usage, so far as the same may be consistent with the provisions of this Act.

Voluntary offerings only to be received.

III. And it is hereby enacted, that the said Rajah of Khoorda shall not receive, or allow to be received by any person connected with the said temple, any payment, other than such voluntary donations as may be freely offered, from any person resorting to the said temple, for the performance of religious ceremonies.

IV. (Repealed by Act VIII. of 1868.)

ACT No. XIII. OF 1840.*

Extends to the territories of the East India Company Statute 4, Geo. 4, Cap. 83, as altered by Statute 6, Geo. 4, Cap. 94, in cases governed by English law, and saving the jurisdiction of Her Majesty's Courts.

Stat. 4, Geo. 4. Cap. 83.

1. Persons in whose names goods are shipped to be deemed the owners as regards the lien of consignees thereon.

2. Right of person taking goods etc. from consignee, to be co-extensive only with right of consignee.

3. Right of owner to follow his goods in the hands of his agent or his assignees and recover them on repayment of advances made on them. Proviso.

Stat. 6, Geo. IV. Cap. 94.

1. Factors or agents to be deemed owners of goods in their possession, and shipped in their name, as regards bonâ fide lien of consignees without notice.

2. Persons in possession of Bills of lading to be deemed the owners for the like purpose.

3. Interest acquired by third parties in goods in the hands of an agent, for previous debt, to be co-extensive only with that of agent.

4. Effect of contracts with agents in the ordinary course of business, or within agent's authority.

5. Persons taking goods in pledge from known agents to acquire interest co-extensive only with that of agent.

6. Right of owner saved to follow, and to recover goods in hands of agent, or their price from third party, upon discharging lien thereon. Proviso.

7. Penalty for agent fraudulently pledging goods of principal.

8. Penalty not to extend to agent pledging goods within the amount of his own lien.

9. Nor to partners without privity.

10. Saving of remedy at Law or in Equity.

An Act for the amendment of the law regarding factors, by extending to the territories of the East India Company, in cases governed by English Law, the provisions of the Statute 4, Geo. IV. c. 83, as altered and amended by the Statute 6, Geo. IV. c. 94.

Extends to the territories of the East India Company Statute 4, Geo. 4, Cap. 83, as altered by Statute 6, Geo. 4, Cap. 94, in cases governed by English law, and saving the jurisdiction of Her Majesty's Courts.

It is hereby enacted, that the Statute of the 4 Geo. IV. c. 83, as altered and amended by the Statute of 6, Geo. IV. c. 94, shall be extended to the territories of the East India Company; provided always, that this Act shall not be construed to affect any case which would not have been governed by the law of England before the passing of the aforesaid Statutes if this Act had not passed, or to extend or alter the jurisdiction of any of Her Majesty's Courts of Justice.

The Statutes hereby extended to the territories of the East India Company are as follows :—

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*See Act XX. of 1844.

4, GEO. IV., C. 83.

An Act for the better protection of the property of merchants and other who may hereafter enter into contracts or agreements in relation to goods, wares or merchandizes intrusted to factors or agents. (18th July, 1823.)

Persons in whose names goods are shipped to be deemed the owners as regards the lien of consignees thereon.

Whereas it has been found that the law, as it now stands, relating to goods shipped in the names of persons who are not the actual proprietors thereof, and to the deposit or pledge of goods, affords great facility to fraud, produces frequent litigation, and proves in its effects highly injurious to the interests of commerce in general ; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, any person or persons intrusted for the purpose of consignment or of sale with any goods, wares or merchandize, and by whom such goods, wares or merchandize shall be shipped in his, her or their own name or names and any person or persons in whose name any goods wares or merchandize shall be shipped by any other person or persons, shall be deemed and taken to be the true owner or owners thereof, so far as to entitle the consignee or consignees of such goods, wares and merchandize to a lien thereon, in respect of any money or negotiable security or securities advanced or given by such consignee or consignees to or for the use of the person or persons in whose name or names such goods wares or merchandize shall be shipped, or in respect of any money or negotiable security or securities received by him, her or them to the use of such consignee or consignees, in the like manner to all intents and purposes as if such person or persons was or were the true owner or owners of such goods, wares and merchandize : provided such consignee or consignees shall not have notice, by the Bill of Lading for the delivery of such goods, wares or merchandize, or otherwise, at or before the time of any advance of such money or negotiable security, or of such receipt of money or negotiable security, in respect of which such lien is claimed, that such person or persons so shipping in his, her or their own name or names, or in whose name or mames any goods, wares or merchandize shall be shipped by any person or persons, is or are not the actual and *bonâ fide* owner or owners, proprietor or proprietors of such goods, wares and merchandize so shipped as aforesaid, any law, usage or custom to the contrary thereof in any wise notwithstanding : provided also, that the person or persons in whose name or names any such goods, wares or merchandize are so shipped as aforesaid, shall be taken for the purposes of this Act to have been intrusted therewith, unless the contrary thereof shall appear or be shown in evidence by any person disputing such fact.

Right of person taking goods etc. from consignee, to be co-extensive only with right of consignee.

II. And be it further enacted, that it shall be lawful to and for any person, or person, body or bodies politic or corporate, to accept and take any goods, wares or merchandize, or the bill or bills of lading for the delivery thereof, in deposit or pledge from any consignee or consignees thereof ; but then and in that case such person or persons, body or bodies politic or corporate, shall acquire no further or other right, title or interest in or upon or to the said goods, wares or merchandize, or any Bill of Lading for the delivery thereof, than was possessed or could or might have been enforced by the said consignee or consignees at the time of such deposit or pledge as a security as aforesaid ; but such person or persons, body or bodies politic or corporate, shall and may acquire, possess and enforce such right, title, or interest, as was possessed and might have been enforced by such consignee or consignees at the time of such deposit or pledge as aforesaid, any rule of law, usage, or custom to the contrary notwithstanding.

Right of owner to follow his goods in the brands of his agent or his assignees and recover them on repayment of advances made on them. Proviso.

III. Provided always, that nothing herein contained shall be deemed, construed, or taken to deprive or prevent the true owner or owners, proprietor or proprietors of such goods, wares or merchandize, from demanding and recovering the same from his, her, or their factor or factors, agent or agents, before the same shall have been so deposited or pledged, or from the assignee or assignees of such factor or factors, agent or agents, in the event of his, her, or their bankruptcy ; nor to prevent any such owner or owners, proprietor or proprietors from demanding or recovering of and from any person or persons, or of or from the assignees of any person or persons in case of his or her bankruptcy, or of or from any body or bodies politic or corporate, such goods, wares, or merchandize so consigned, deposited, or pledged, upon repayment of the money or on restoration of the negotiable security or securities, or on payment of a sum of money equal to the amount of such security or securities, for which money or negotiable security or securities such person or persons, his, her, or their assignee or assignees, or such body or bodies, politic or corporate, may be entitled to any lien upon such goods, wares, or merchandize, nor to prevent the said owner or

owners, proprietor or proprietors, from recovering of and from such person or persons, body or bodies politic or corporate, any balance or sum of money remaining in his, her, or their hands, as the produce of the sale of such goods, wares, or merchandize, after deducting thereout the amount of the money or negotiable security or securities so advanced or given upon the security thereof as aforesaid. Provided always, that in case of the bankruptcy of such factor or agent, the owner of the goods so pledged and redeemed as aforesaid shall be held to have discharged *pro tanto* the debt due by him to the bankrupt's estate.

6, GEO. CAP. 94.

An Act to alter and amend an Act for the better protection of the property of merchants and others, who may hereafter enter into contracts or agreements in relation to goods, wares, or merchandizes intrusted to factors or agents.

Factors or agents to be deemed owners of goods in their possession and shipped in their names as regards bonâ fide lien of consignees without notice.

WHEREAS an Act passed in the fourth year of the reign of His present Majesty, intituled *An Act for the better protection of the property of merchants and others, who may hereafter enter into contracts or arrangements in relation to goods, wares, or merchandize intrusted to factors or agents*: And whereas it is expedient to alter and amend the said Act, and to make further provisions in relation to such contracts or agreements, as hereinafter provided: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lord spiritual and temporal and Commons in this present parliament assembled, and by the authority of the same, that from and after the passing of this Act, any person or persons intrusted for the purpose of consignment or of sale, with any goods, wares, or merchandize, and who shall have shipped such goods, wares, or merchandize, in his, her, or their own name or names, and any person or persons, in whose name or names any goods, wares or merchandize shall be shipped by any other person or persons, shall be deemed and taken to be the true owner or owners thereof, so far as to entitle the consignee or consignees of such goods, wares, and merchandize to a lien thereon, in respect of any money or negotiable security or securities advanced or given by such consignee or consignees to or for the use of the person or persons in whose name or names such goods, wares, or merchandize shall be shipped, or in respect of any money or negotiable security or securities received by him, her, or them to the use of such consignee or consignees, in the like manner to all intents and purposes as if such person or persons was or were the true owner or owners of such goods, wares, and merchandize, provided such consignee or consignees shall not have notice by the Bill of Lading for the delivery of such goods, wares or merchandize, or otherwise, at or before the time of any advance of such money or negotiable security, or of such receipt of money or negotiable security in respect of which such lien is claimed, that such person or persons so shipping in his, her, or their own name or names, or in whose name or names any goods, wares, or merchandize shall be shipped by any person or persons, is or are not the actual and *bonâ fide* owner or owners, proprietor or proprietors, of such goods, wares, and merchandize so shipped as aforesaid, any law, usage, or custom to the contrary thereof in any wise notwithstanding: provided also, that the person or persons in whose name or names any such goods, wares, or merchandize are so shipped as aforesaide, shall be taken, for the purpose of this Act, to have been intrusted therewith for the purpose of consignment or of sale, unless the contrary thereof shall be made to appear by bill of discovery or otherwise, or be made to appear, or be shown in evidence by any person disputing such fact.

Persons in possession of Bills of lading to be deemed the owners for the like purpose.

II. And be it further enacted, that from and after the first day of October one thousand eight hundred and twenty-six, any person or persons intrusted with and in possession of any Bill of Lading, India warrant, Dock warrant, warehouse keeper's certificate, wharfinger's certificate, warrant or order for delivery of goods, shall be deemed and taken to be the true owner or owners of the goods, wares, and merchandize described and mentioned in the said several documents hereinbefore stated respectively, or either of them, so far as to give validity to any contract or agreement thereafter to be made or entered into by such person or persons so intrusted and in possession as aforesaid, with any person or persons, body or bodies politic or corporate, for the sale or disposition of the said goods, wares, and merchandize, or any part thereof, or for the deposit or pledge thereof or any part thereof, as a security for any money or negotiable instrument or instruments advanced or given by such person or persons, body or bodies politic or corporate, upon the faith of such several documents or either of them; provided such person, or persons, body or bodies politic or corporate, shall not have notice by such documents, or either of them, or otherwise, that such person or persons so intrusted as aforesaid is or are not the actual and *bonâ fide* owner or owners, proprietor or proprietors, of such goods, wares, or merchandize, so sold or deposited or pledged

as aforesaid, any law, usage, or custom to the contrary thereof in any wise notwithstanding.

III. Provided always, and be it further enacted, that in case any person or persons, body or bodies politic or corporate, shall, after the passing of this Act, accept and take any such goods, wares, or merchandize, in deposit or pledge from any such person or persons so in possession and instrusted as aforesaid, without notice as aforesaid, as a security for any debt or demand due and owing from such person or persons so intrusted and in possession as aforesaid to such person or persons, body or bodies politic or corporate, before the time of such deposit or pledge, then and in that case such person or persons, body or bodies politic or corporate, so accepting or taking such goods, wares, or merchandize in deposit or pledge, shall acquire no further or other right, title, or interest in or upon or to the said goods, wares, or merchandize, or any such document as aforesaid, than was possessed or could or might have been enforced by the said person or persons so possessed and intrusted as aforesaid, at the time of such deposit or pledge, as a security as last aforesaid; but such person or persons, body or bodies politic or corporate, so accepting or taking such goods, wares, or merchandize in deposit or pledge, shall and may acquire, possess, and enforce such right, title, or interest as was possessed and might have been enforced by such person or persons so possessed and intrusted as aforesaid, any rule of law, usage, or custom to the contrary notwithstanding.

Interest acquired by third parties in goods in the hands of an Agent, for previous debt, to be co-extensive only with that of agent.

IV. And be it further enacted, that from and after the first day of October one thousand eight hundred and twenty six, it shall be lawful to and for any person or persons, body or bodies politic or corporate, to contract with any agent or agents, intrusted with any goods, wares, or merchandize, or to whom the same may be consigned, for the purchase of any such goods, wares, and merchaudize, and to receive the same of and pay for the same to such agent or agents; and such contract and payment shall be binding upon and good against the owner of such goods, wares, and merchandize, notwithstanding such person or persons, body or bodies, politic or corporate, shall have notice that the person or persons making and entering into such contract, or on whose behalf such contract is made or entered into, is an agent or agents, provided such contract and payment be made in the usual and ordinary course of business, and that such person or persons, body or bodies, politic or corporate, shall not, when such contract is entered into or payment made, have notice that such agent or agents, is or are not authorized to sell the said goods, wares, and merchandize, or to receive the said purchase money.

Effect of contracts with agents in the ordinary course of business, or within agent's authority.

V. And be it further enacted, that from and after the passing of this Act, it shall be lawful to and for any person or persons, body or bodies politic or corporate, to accept and take any such goods, wares, or merchandize, or any such document as aforsaid, in deposit or pledge from any such factor or factors, agent or agents, notwithstanding such person or persons, body or bodies politic or corporate, shall have such notice as aforesaid, that the person or persons making such deposit or pledge is or are a factor or factors, agent or agents; but then and in that case such person or persons, body or bodies politic or corporate, shall acquire no further or other right, title, or interest in or upon or to the said goods, wares or merchandize, or any such document as aforesaid, for the delivery thereof, than was possessed or could or might have been enforced by the said factor or factors, agent or agents, at the time of such deposit or pledge as a security as last aforesaid; but such person or persons, body or bodies politic or corporate, shall and may acquire, possess, and enforce such right, title, or interest as was possessed and might have been enforced by such factor or factors, agent or agents, at the time of such deposit or pledge as aforesaid, any rule of law, usage, or custom to the contrary notwithstanding.

Persons taking goods in pledge from known agents to acquire interest co-extensive only with that of agent.

VI. Provided always, and be it enacted, that nothing herein contained shall be deemed, construed, or taken to deprive or prevent the true owner or owners, or proprietor or proprietors, of such goods, wares, or merchandize, from demanding and recovering the same from his, her, or their factor or factors, agent or agents, before the same shall have been so sold, deposited, or pledged, or from the assignee or assignees of such factor or factors, agent or agents, in the event of his, her, or their bankruptcy; nor to prevent such owner or owners, proprietor or proprietors, from demanding or recovering of and from any person or persons, body or bodies politic or corporate, the price or sum agreed to be paid for the purchase of such goods, wares, or merchandize, subject to any right of set off on the part of such person or persons, body or bodies, politic or corporate, against such factor or factors, agent or agents; nor to prevent such owner or owners, proprietor or proprietors, from demanding or recovering of and from such person or persons, body or bodies politic or corporate, such goods, wares, or merchandize so deposited

Right of owner saved to follow, and to recover goods in hands of agent, or their price from third party, upon discharging lien thereon.

or pledged, upon repayment of the money, or on restoration of the negotiable instrument or instruments so advanced or given on the security of such goods, wares, or merchandize as aforesaid, by such person or persons, body or bodies politic or corporate, to such factor or factors, agent or agents, and upon payment of such further sum of money, or on restoration of such other negotiable instrument or instruments (if any) as may have been advanced or given by such factor or factors, agent or agents, to such owner or owners, proprietor or proprietors, or on payment of a sum of money equal to the amount of such instrument or instruments; nor to prevent the said owner or owners, proprietor or proprietors, from recovering of and from such person or persons, body or bodies politic or corporate, any balance or sum of money remaining in his, her, or their hands, as the produce of the sale of such goods, wares, or merchandize, after deducting thereout the amount of the money or negotiable instrument or instruments so advanced or given upon the security thereof as aforesaid: provided always, that in case of the bankruptcy of any such factor or agent, the owner or owners, proprietor or proprietors, of the goods, wares, and merchandize, so pledged and redeemed as, aforesaid, shall be held to have discharged *pro tanto* the debt due by him, her, or them to the estate of such bankrupt.

Proviso.

Penalty for agent fraudulently pledging goods of principal.

VII. And whereas it is expedient to prevent the improper deposit or pledge of goods, wares, or merchandize, or the documents relating to such goods, wares, or merchandize, intrusted or consigned as aforesaid to factors or agents; be it therefore enacted, that if any such factors or agents, at any time from and after the said first day of October, one thousand eight hundred and twenty-six shall deposit or pledge any goods, wares, or merchandize, intrusted or consigned as aforesaid to his or her care or management, or any of the said several documents so possessed or intrusted as aforesaid, with any person or persons, body or bodies politic or corporate, as a security for any money or negotiable instrument or instruments borrowed or received by such factor or agent, and shall apply or dispose thereof to his or her own use, in violation of good faith, and with intent to defraud the owner or owners of any such goods, wares, or merchandize, every person so offending, in any part of the United Kingdom, shall be deemed and taken to be guilty of a misdemeanour, and being convicted thereof according to law, shall be sentenced to transportation for any term not exceeding fourteen years, or to receive such other punishment as may by law be inflicted on persons guilty of a misdemeanour, and as the Court before whom such offender may be tried and convicted shall adjudge.

Penalty not to extend to agent pledging goods within the amount of his own lien.

VIII. Provided always, and be it further enacted, that nothing herein contained shall extend or be construed to subject any person or persons to prosecution for having deposited or pledged any goods, wares, or merchandize, so intrusted or consigned to him, her, or them, provided the sume shall not be made a security for or subject to the payment of any greater sum or sums of money than at the time of such deposit or pledge was justly due and owing to such person or persons from his, her, or their principal or principals: Provided nevertheless, that the acceptances of Bills of Exchange by such person or persons drawn by or on account of such principal or principals shall not be considered as constituting any part of such debt so due and owing from such principal or principals within the true intent and meaning of this Act, so as to excuse the consequence of such a deposit or pledge, unless such Bills shall be paid when the same shall respectively become due.

Nor to partners without privity.

IX. Provided also, and be it further enacted, that the penalty by this Act annexed to the commission of any offence intended to be guarded against by this Act, shall not extend or be construed to extend to any partner or partners or other person or persons of or belonging to any partnership, society, or firm, except only such partner or partners, person or persons, shall be necessary or privy to the commission of such offence; anything herein contained to the contrary in any wise notwithstanding.

Saving of remedy at Law or in equity.

X. Provided also and be it further enacted, that nothing in this Act contained, nor any proceeding, conviction, or judgment to be had or taken thereupon, shall hinder, prevent, lessen or impeach any remedy at Law or in Equity, which any party or parties aggrieved by any offence against this Act might or would have had or have been entitled to against any such offender if this Act had not been made, nor any proceeding, conviction, or judgment had been had or taken thereupon; but nevertheless, the conviction of any offender against this Act shall not be received in evidence in any action at Law or suit in Equity against such offender: and, further that no person shall be liable to be convicted by any evidence whatever as an offender against this Act, in respect of any act, matter, or thing done by him, if he shall at any time previously to his being indicted for such offence have disclosed any such matter or thing on oath, under or in consequence of any compulsory

process of any Court of Law or Equity, in any action, suit, or proceeding, in or to which he shall have been a party, and which shall have been *bonâ fide* instituted by the party aggrieved by the act, matter, or thing which shall have been committed by such offender aforesaid.

ACT No. XIV. OF 1840.

1. Extends to India the Stat. 9, Geo. IV. C. 14.

Stat. 9, Geo. IV. C. 14.

1. Acknowledgment in actions for debt, or on the case must be in writing or in part payment. Act of a Co-contractor not to deprive joint Contractor of the benefit of the Statute. Judgment may be against some and in favour of other Co-contractors.

2. On issue joined upon a plea in abatement, when one or more of the persons named in the plea are found to be not liable, the issue shall be found against the party pleading.

3. No endorsement of payment by payee on note etc., shall be proof of payment, so as to take case out of operation of the Statutes.

4. Statutes of Limitation shall apply to debts alleged as set-off.

5. Ratification of promise made in infancy to be in writing.

6. No action to lie for representation regarding credit etc., of another unless in writing.

7. Seventeenth Section of Statute of Frauds extended to Contracts for goods of £10 and upwards though for future delivery.

8. Agreements under last section need not be stamped.

An Act for rendering a written memorandum necessary to the validity of certain promises and engagements, by extending to the territories of the East India Company, in cases governed by Engish Law, the provisions of the Statute 9, Geo. IV. Cap. 14.

It is hereby enacted, that the Statute 9, Geo. IV Cap. 14 shall be extended to the territories of the East India Company ; provided always, that this Act shall not be construed to affect any case, which would not have been governed by the Law of England before the passing of the aforesaid Statute if this Act had not passed, or to extend or alter the jurisdiction of any of Her Majesty's Courts of Justice.

The Statute hereby extended to the territories of the East India Company is as follows (the sum of £ 10 mentioned therein to be deemed 100 Rupees in the application of the Statute to the aforesaid territories).

9, GEO. IV. CAP. 14.

An Act for rendering a written memorandum necessary to the validity of certain promises and engagements.

9th May 1828.

Acknowledgment in actions for debt, or on the case, must be in writing, or in part payment. Act of a Co-Contractor not to deprive joint Contractor of the benefit of the Statute. Judgment may be against some and in favour of other Co-Contractors.

Whereas by an Act passed in England in the twenty-first year of the reign of King James the First, it was among other things enacted, that all actions of account and upon the case, other than such accounts as concern the trade of merchandize between merchant and merchants, their factors or servants, all actions of debt grounded upon any lending or contract without specialty, and all actions of debt for arrearages of rent, should be commenced within three years after the end of the then present Session of Parliament, or within six years next after the cause of such actions or suits, and not after. And whereas a similar enactment is contained in an Act passed in Ireland in the tenth year of the reign of King Charles the First, and whereas various questions have arisen in actions founded on simple contract, as to the proof and effect of acknowledgments and promises offered in evidence for the purpose of taking cases out of the operation of the said enactments ; and it is expedient to prevent such questions, and to make provision for giving effect to the said enactments and to the intention thereof ; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons in this present Parliament assembled, and by the authority of the same, that in actions of debt or upon the case grounded upon any simple contract, no acknowledgment or

promise by words only shall be deemed sufficient evidence of a new or continuing contract, whereby to take any case out of the operation of the said enactments or either of them, or to deprive any party of the benefit thereof, unless such acknowledgment or promise shall be made or contained by or in some writing to be signed by the party chargeable thereby, and that where there shall be two or more joint contractors, or executors or administrators of any contractor, no such joint contractor, executor or administrator shall lose the benefit of the said enactments or either of them, so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed by any other or others of them. Provided always that nothing herein contained shall alter or take away or lessen the effect of any payment of any principal or interest made by any person whatever. Provided also, that in actions to be commenced against two or more such joint contractors, or executors, or administrators, if it shall appear at the trial or otherwise that the plaintiff, though barred by either of the said recited Acts or this Act, as to one or more of such joint contractors, or executors or administrators, shall nevertheless be entitled to recover against any other or others of the defendants, by virtue of a new acknowledgment or promise, or otherwise, judgment may be given and costs allowed for the plaintiff as to such defendant or defendants against whom he shall recover, and for the other defendant or defendants against the plaintiff.

On issue joined upon a plea in abatement when one or more of the persons named in the plea are found to be not liable, the issue shall be found against the party pleading.

II. And be it further enacted, that if any defendant or defendants in any action on any simple contracts shall plead any matter in abatement, to the effect that any other person or persons ought to be jointly sued, and issue be joined on such plea, and it shall appear at the trial that the action could not, by reason of the said recited Acts or this Act, or of either of them, be maintained against the other person or persons named in such plea or any of them, the issue joined on such plea shall be found against the party pleading the same.

No endorsement of payment by payee on note etc, shall be proof of payment, so as to take case out of operation of the Statutes.

III. And be it further enacted, that no indorsement or memorandum of any payment, written or made after the time appointed for this Act to take effect, upon any Promissory Note, Bill of Exchange, or other writing or on the behalf of the party to whom such payment shall be made shall be deemed sufficient proof of such payment so as to take the case out of the operation of either of the said statutes.

Statutes of limitation shall apply to debt alleged as set-off.

IV. And be it further enacted, that the said recited Acts and this Act shall be deemed and taken to apply to the case of any debt on simple contract alleged by way of set-off on the part of any defendant, either by plea, notice, or otherwise.

Ratification of promise made in infancy to be in writing.

V. And be it further enacted, that no action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification after full age of any promise or simple contract made during infancy, unless such promise or ratification shall be made by some writing signed by the party to be charged therewith.

No action to lie for representation regarding credit etc., of another unless in writing.

VI. And be it further enacted, that no action shall be brought whereby to charge any person upon or by reason of any representation or assurance made or given, concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain credit, money, or goods thereupon, unless such representation or assurance be made in writing, signed by the party to be charged therewith.

Seventeenth Section of Statute of Frauds extended to contracts for goods of £10 and upwards though for future delivery.

VII. And whereas by an Act passed in England in the twenty-ninth year of the reign of King Charles the Second, intitled an Act for the prevention of frauds and perjuries, it is, among other things enacted, that from and after the twenty-fourth day of June one thousand six hundred and seventy-seven, no contract for the sale of any goods, wares, and merchandizes for the price of ten pounds sterling or upwards shall be allowed to be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain or in part of payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorized : and whereas a similar enactment is contained in an Act passed in Ireland in the seventh year of the reign of King William the Third : and whereas it has been held that the said recited enactments do not extend to certain executory contracts for the sale of goods, which nevertheless are within the mischief thereby intended to be remedied : and it is expedient to extend the said enactments to such executory contracts : be it enacted, that the said enactments shall extend to all contracts for the sale of goods of the value of ten pounds sterling and upwards, notwithstanding the goods may be intended to be delivered at some future time, or may not at the time of such contract be actually made, procured or provided, or fit or ready for delivery, or some act may be requisite for the making or completing thereof, or rendering the same fit for delivery.

VIII. Repealed by Act XVIII. of 1869.

ACT No. XVI. OF 1840.

1. Property in service of person undergoing transportation be vested in person to whom he is delivered.

2. The Governor-General in Council may appoint superintendents to receive charge of Convicts under transportation.

3. Orders may be issued by Governor-General to superintendent, and rules formed regarding Control, Conduct and Correction of Convicts.

4. Act to apply to Convicts now under sentence of transportation.

An Act concerning the management of convicts transported to places within the territories of the East India Company.

I. Whereas doubts have arisen touching the legal mode of treating convicts transported to places within the territories of the East India Company, and it is expedient to modify the rules which have heretofore been followed with regard to the management of such convicts;

Property in service of person undergoing transportation be vested in person to whom he is delivered.

It is hereby declared and enacted, that as soon as any offender shall be delivered to the person or persons, to be appointed by the Governor-General in Council on that behalf, at the place to which he is transported, the property in the service of such offender shall be vested in such person or persons during the term of transportation.

II. And it is hereby declared and enacted, that it shall be lawful for the Governor-General in Council to appoint the governor or other authority at any place within the territories of the East India Company, or to appoint one or more superintendents at any such place, as the persons to whom convicts undergoing transportation shall be delivered, and in whom the property in the service of such convicts shall be vested as aforesaid.

The Governor-General in Council may appoint superintendents to receive charge of Convicts under transportation.

III. And it is hereby declared and enacted, that it shall be lawful for the Governor-General in Council to issue orders from time to time to any such governor, authority, or superintendent, and which orders are hereby required to be duly executed, and to frame rules touching the classification of convicts, their confinement, treatment, and discipline, and touching such moderate correction as may be necessary in cases of misbehaviour and disorderly conduct, and of neglect or disobedience in the service of those persons on whom the property of such service may be vested as aforesaid.

Orders may be issued by Governor-General to superintendent, and rules framed regarding Control, Conduct and Correction of Convicts.

IV. And it is hereby declared and enacted, that all persons who have heretofore been transported to any place within the territories of the East India Company, and whose terms of transportation are not yet expired, shall be subject to the provisions contained in this Act, and nothing heretofore done with respect to offenders who have been so transported in conformity with the provisions of this Act, or by the orders or with the sanction of Government, shall be called in question in any court of law.

Act to apply to Convicts now under sentence of transportation.

ACT No. XXIII. OF 1840.

1. Process of mofussil Courts how to be executed within the limits of the Supreme Courts.

2. Procedure of Sheriff. No distinction to be made as to priority between writs, &c., under this Act and other writs, etc.

3. Nor as to Sheriff's liability.

4. Persons disobeying, or obstructing execution of process under this Act, punishable by the Supreme Courts.

5. Sheriff to whom to deliver person arrested under this Act.

6. Judge how to proceed when required to indorse any process, if defective.

7. May direct bail to be taken.

8. Sheriff may use any Civil or Criminal jail within the limits of the Supreme Courts for the purposes of this Act, and every sentence of imprisonment passed by a mofussil authority may be carried out in such jails.

An Act for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by authorities in the mofussil.

Process of mofussil Courts how to be executed within the limits of the Supreme Courts.

I. Whereas great inconvenience has been experienced, in consequence of the difficulty of procuring the attendance as witnesses before the Mofussil authorities of persons resident within the local limits of Her Majesty's Supreme Courts, and, in consequence of justice being often frustrated by reason of persons and property within such limits being exempted from process issued by such authorities, which has also occasioned inconvenience to the inhabitants within such limits, in suits in the mofussil Courts to which they are parties ;—

It is hereby enacted, that any writ, warrant, or other process issued by any Court, Judge, or Magistrate in the territories beyond the local limits of the Supreme Courts of Calcutta, Madras and Bombay respectively, may be executed within those limits in manner following. * A copy of such writ, warrant, or other process authenticated as such by the attention of the Court, Judge, or Magistrate signing or issuing the same, accompanied by a certified translation in the English language, shall be presented to any Judge of Her Majesty's Courts, who may thereupon, under his hand and signature, indorse, and direct the same to be executed within the local limits of any of Her Majesty's Courts by the Sheriff, or by any Justice of the Peace according to the nature of such writ, warrant or other process.

Procedure of Sheriff.

No distinction to be made as to priority between writs, &c., under this Act and other writs, &c.

II. And it is hereby provided, that upon the delivery of every such writ, warrant or process so indorsed as aforesaid to any such Sheriff as aforesaid, every such Sheriff shall make a memorandum of the date of such delivery, and shall execute such writ, warrant or process in like manner as if the same had originally issued from any of Her Majesty's Courts and had been delivered at the date as appearing by the memorandum ; and such Sheriff shall make no distinction as to priority or otherwise between the execution of any writ, warrant or other process originally issued from any of Her Majesty's Courts, and the execution of any writ, warrant or other process under this Act. But every writ, warrant and other process, whether original or indorsed as aforesaid, shall, amongst each other, be subject to the same rules touching the mode and order of execution as are now established in respect of writs, warrants, and other process originally issued from Her Majesty's Courts of Justice.

Nor as to Sheriff's liability.

III. And it is hereby enacted, that every such Sheriff shall be liable to be proceeded against in Her Majesty's Courts of Justice for all matters touching the execution of any writ, warrant or other process executed under this Act, in like manner as if the same had originally issued from any of Her Majesty's Courts of Justice. And all persons and property seized or detained under any writ, warrant or process executed by virtue of this Act shall be dealt with in like manner as if such persons or property had been seized or detained under the like writ, warrant or other process issued from any of Her Majesty's Courts of Justice.

Persons disobeying or obstructing execution of process under this Act, punishable by the Supreme Courts.

IV. And it is hereby enacted, that all persons disobeying or obstructing the execution of any writ, warrant or other process indorsed under this Act, shall be punishable in Her Majesty's Courts of Justice, in like manner as if the same had issued from such Courts ; provided always, that in the case of process for the attendance of witnesses, Her Majesty's Courts shall be governed by the like rules touching expenses and other matters as are established in regard to subpœnas issued from such Courts.

Sheriff to whom to deliver person arrested under this Act.

V. And it is hereby enacted, in the case of persons seized or detained by virtue of any writ, warrant or other process executed under the authority of this Act by any Justice of the Peace or by any Sheriff, that it shall be the duty of every such Sheriff or Justice of the Peace, if so required by the indorsement of the Judge, to deliver the party in custody to such authority or persons as shall be particularly specified in such indorsement, and who shall have been charged with the execution of the writ, warrant or other process by the authority originally issuing the same, and for that purpose to cause the party in custody to be conveyed to any place within the Company's territories beyond the local limits of the jurisdiction of Her Majesty's Courts.

Judge how to proceed when required to indorse any process, if defective.

VI. And it is hereby provided, that in the case of any writ, warrant, or other process required to be indorsed under the authority of this Act, it shall be lawful for the Judge who shall be required to indorse the same, to remit the same for amendment to the authority issuing the same, if the same shall appear to be defective in any matter of form.

May direct bail to be taken.

VII. And it is hereby provided, that in the case of any writ, warrant or other process required to be indorsed under the authority of this Act, for the seizure or detention of any person, it shall be lawful for the Judge who shall be required to indorse the same to direct by indorsement that bail (the amount and number of sureties to be specified in such indorsement,) may be taken ; and for

* For Sheriff's fees, *see* Act VIII. 1852.

this purpose to call for such documents and to make such inquiry as he shall think proper.

Sheriff may use any Civil or Criminal jail within the limits of the Supreme Courts for the purposes of this Act, and every sentence of imprisonment passed by a mofussil authority may be carried out in such jails.

VIII. And whereas it is expedient, that offenders sentenced by the mofussil authorities to imprisonment with or without hard labour, should be subjected to the most improved rules of prison-discipline, which cannot in all cases be conveniently done, except in the prisons locally situate within the jurisdiction of Her Majesty's Supreme Courts, it is hereby enacted, that all civil and criminal gaols and houses of correction within the jurisdiction of any of Her Majesty's Supreme Courts, shall, according to the nature of the case, be liable to be used by the Sheriff for the purposes of this Act, and the parties imprisoned therein under the authority of this Act shall be liable to the prison-discipline thereof, and all sentences of imprisonment passed by any Judge, Court or Magistrate in the territories of the East India Company, beyond the local limits of Her Majesty's Supreme Courts, may be executed in whole or in part within any of the goals or houses of correction aforesaid, provided that a copy of the warrant of commitment, or other process authorizing the imprisonment be so indorsed as aforesaid, and such indorsement contain the necessary directions.*

* Repealed by Act 11, 1864 of the Bengal Council, as regards Presidency of Fort William.

ACT No. I. OF 1841.

1. Preamble.
2. Definition of "putteedaree estate," lumberdar and putteedar.
3. Modes of duress allowable against putteedars in certain cases.
4. Other putteedar not in arrears may claim right of pre-emption in case of sale to stranger.
5. Collector under what restrictions to use his powers of duress.
6. Sale of puttee to be regulated in same way as that of an entire Mehal, except as regards permanent ryots.
7. Agreement to pay rent to be executed by member of sold or transferred puttee before cultivating. Where parties disagree as to rent, a jury of the vicinage to decide.
8. Certified copy of Jumma-wasil-bakee and detailed Khuteonee of tehsildar to be good evidence of arrer s.
9. Collector to put purchasers etc., in possession under Reg. VII. 1822, Sec. 23.
10. All proprietors and the entire estate responsible to government for the whole Jumma.
11. Power of Governor-General in Council to extend Act.

An Act for facilitating the collection of the revenue of Government and defining the interest intended to be conveyed by public sales for the realization of arrears of the public revenue in putteedaree estates.

Preamble.

Preamble I. The Regulations in force authorize the application of duress for enforcing the payment of arrears of the public revenue, only against the person and property of the contracting lumberdar, leaving him to proceed against the putteedars by suit or distraint. But with reference to the peculiar nature of these coparcenaries, the existing enactments appear to be insufficient, on the one hand, for the protection of the rights of the putteedars, and, on the other hand, for the punctual realization of the dues of Government. The Regulations are also deficient in not authorizing with sufficient distinctness the sale or transfer of the puttees of defaulting putteedars in putteedaree estates, and in not defining the interest intended to be conveyed by public sales of such estates.

Definition of "putteedaree estate," lumberdar and putteedar.

II. A putteedaree estate in this Act is held to be an estate which consists of two or more separate portions or puttees, or of which there may be proprietors possessed of separate properties and holding direct of the Government, but not parties in their own names to the contract with the Government for payment of the public revenue. The proprietor who is a party in his own name is called a lumberdar, and the proprietor who is not a party in his own name is called a putteedar.

Modes of duress allowable against putteedars in certain cases.

III. It is hereby enacted, that the following modes of duress may be enforced against all putteedars whose tenure and interest may have been defined by a settlement formed according to Regulation VII. of 1822, as modified by Regulation IX. of 1833, whether every such putteedar be in sole occupation of his puttee, or hold it in common with others.

1st. Issue of dustucks in the same manner, and under the same limitation as authorized by the rules in force for lumberdars.

2nd. Arrest, detention, imprisonment, distraint and sale of personal property, as now authorized to be enforced against lumberdars.

3rd. Transfer of the defaulting puttee in perpetuity to the members of any other puttee which may not be in arrear.

4th. Annulment of the settlement as regards the defaulting puttee, and lease thereof to the members of any other puttee which may not be in arrear, or to a stranger for any term not exceeding fifteen years.

5th. Sale of the defaulting puttee by public auction, in which case the members of the remaining puttees who may not be in arrear are authorized to bid.

Other putteedar not in arrears may claim right of pre-emption in case of sale to stranger.

IV. And it is hereby enacted, that on occasion of the sale by public auction of any puttee, if the lot shall have been knocked down to a stranger, any putteedar or other member of the coparcenary, not being himself in arrear, may claim to take the said puttee at the sum last bid, provided that the said demand of pre-emption be made on the day of sale and before the Collector shall have left the office, and provided that the claimant fulfil all the other conditions of the sale.

Collector under what restrictions to

V. And it is hereby enacted, that the above methods be employed by the Collector or other officers vested with the powers of Collector, under such limita-

tion and control as Government or other superior revenue authorities shall see fit to prescribe or enforce.

use his powers of duress.

VI. And it is hereby enacted, that the sale of any puttee by public auction, shall be effected, in respect to the notice to be issued, the authority to be obtained, and the mode of conducting the sale, according to the rules prescribed by law from time to time for the sale of an entire Mehal; and the Puttee, after the sale shall have been duly confirmed, shall be the absolute property of the purchaser, save and except the rights of those ryots, whose right to the permanent occupancy of their lands may have been recognized, and the rates of rent payable by whom may have been adjusted and recorded at the last settlement.

Sale of puttee to be regulated in same way as that of an entire mahal except as regards permanent ryots.

VII. And it is hereby enacted, that in case of the lease or other temporary transfer of any puttee, as above said, no member of that puttee shall be entitled to cultivate any land therein during the term of such transfer, or in case of absolute sale, no member of the puttee shall be entitled to hold or cultivate any land therein from and after the month of Bysack next succeeding such sale, unless the said member of such sold or transferred puttee shall first execute a written engagement to pay rent to the purchaser or transferree at the rate demanded by the purchaser or transferree. Provided, that it shall be competent to the Collector, subject to the orders of the Commissioner and the Sudder Board of Revenue, if the rate cannot be fixed by private bargain between the parties, to cause the same to be fixed by a jury of the vicinage in the mode directed by Sections 5 to 10, Regulation IX. of 1833.

Agreement to pay rent to be executed by member of sold or transferred puttee before cultivating. Where parties disagree as to rent, a jury of the vicinage to decide.

VIII. And it is hereby enacted, that a copy of the Jumma-wasil-bakee and detailed Khuteonee of the tehsildar signed and sealed by him, and countersigned by the canoongoes and putwarree, exhibiting in detail the amount paid by and arrear due from each puttee, shall be taken to be sufficient evidence of the arrear due from that puttee, and these papers shall invariably be filed with the Collector's proceedings.

Certified copy of Jmma-wasil-bakee and detailed Khuteonee of tehsildar to be good evidence of arrears.

IX. And be it enacted, that the Collector be empowered to give possession to all purchasers and transferrees under this Act in the mode authorized by Clause 3, Section 23, of Regulation VII. of 1822.

Collector to put purchasers &c., in possession under Reg. VII. 1822, Section 23.

X. And it is hereby enacted, that nothing contained in this Act shall bar the indefeasible right of Government to hold the entire body of proprietors and the entire estate responsible for the amount of the whole Jumma, and to enforce the existing Regulations for the transfer or sale of the whole estate, whenever it shall appear to them just and expedient. In every such case it is hereby declared, in modification of Regulation XI. of 1822, that the entire proprietary rights of every member of the coparcenary shall be annulled and forfeited, and the provision of Section 7 of this Act shall be applicable to every member of the coparcenary.

All proprietors and the entire estate responsible for the whole Jumma.

XI. And it is hereby enacted, that the Governor General in Council may extend the provisions of this Act to any district, to which, with reference to the nature of the tenures prevalent therein, its extension may be expedient, although no settlement of such district may have been made under Regulations VII. of 1822, and IX. of 1833, and the order of Government shall be sufficient authority for such extension.

Power of Governor-General in council to extend Act.

ACT No. V. OF 1841.*

1. Charges of treason or other crime against the State may be tried by the ordinary tribunals.

2. Presidency Government may issue a commission for the trial of such offences.

3. Commission shall try prisoners in the same manner as the ordinary Courts; except that every sentence must be reported before execution.

4. In case of death or absence of any judge, the remainder to constitute a Court during the vacancy.

5. The highest Courts to proceed in the ordinary manner in cases referred to them, but to report sentence to Government.

* So much of Sections 2 and 4, as applies to Law officers has been repealed by Act VIII. of 1868. See also Act XXIII. 1854.

6. Magistrate of district to give immediate notice of such charges to Presidency Government.

7. Saves the jurisdiction of the Supreme Courts.

An Act for the greater uniformity of the process upon trials for state offences, and the amendment of such process in certain cases.

Charges of treason or other crime against the State may be tried by the ordinary tribunals.

I. Whereas it is expedient that the rules of process for the trials of State offences should be modified with a view to uniformity at the different Presidencies; and whereas some of the rules heretofore in force at particular Presidencies require amendment: —

It is hereby enacted, in modification of all Regulations and parts of Regulations affecting process upon trials for State offences, that it shall be competent for the ordinary tribunals to try charges of treason, rebellion or other crime against the State,

Presidency Government may issue a commission for the trial of such offences.

II. And it is hereby enacted, that it shall be competent for the Government of any Presidency to issue a commission for the trial of any offences of treason, rebellion or crime against the State, by one or more Judges together with such law officers as shall be required, or without any such officer, according as it may be deemed expedient.

Commission shall try prisoners in the same manner as the ordinary Courts; except that every sentence must be reported before execution.

III. And it is hereby enacted, that the Courts convened under such Commissions are to try the prisoners brought before them in the same manner as in trials before the ordinary Courts; and shall exercise all powers and authorities vested in such Courts, except that their sentence, whether of acquittal or punishment, shall in every instance be reported with their proceedings to the highest Court of the East India Company for criminal matters of the Presidency, previous to carrying the same into execution; and they are to be guided as to the place where they are to assemble, the persons to be tried by them, and all other particulars not provided by any Regulation of the respective Presidencies, or by any Act of the Governor-General of India in Council, by the special orders which they may receive from the executive Government, or from the highest Court of the East India Company for criminal matters in the Presidency.

In case of death or absence of any Judge the remainder to constitute a Court during the vacancy.

IV. And it is hereby enacted, that in case of the death, or of the absence from indisposition or other cause, of any of the Judges, or Law Officers of the Courts which may be appointed to try offenders under this Regulation, the remaining Judge or Judges, or Law Officer or Officers, shall be competent to form a Court, and proceed with the trial or trials, until provision can be made by the Government of the Presidency for supplying the place of such Judge or Judges, or Law Officer or Officers, if any such provision shall be deemed necessary; or if no such provision be made, the powers and proceedings of the said Courts shall not be affected by the death or absence of such Judge or Judges, or Law Officer or Officers.

The highest Courts to proceed in the ordinary manner in cases referred to them, but to report sentence to Government.

V. And it is hereby enacted, that the highest Courts of the East India Company for criminal matters of the respective Presidencies on the receipt of any trials referred to them under this Act, are to proceed thereupon according to the rules in force with respect to other trials referred to them; except that they are in every instance to report their sentences to the executive Government of the Presidency for the time being; and are to wait the orders of Government for the period of three calendar months before they direct their sentence to be carried into execution.

Magistrate of district to give immediate notice of such charges to Presidency Government.

VI. And it is hereby enacted, that the Magistrates of the several zillahs and cities, where any person or persons shall be charged with the crimes mentioned in this Act, shall give immediate notice thereof to the Government of the Presidency to which their several districts or cities belong and shall pay immediate and strict attention to all orders which may be transmitted to them by their respective Governments for the apprehension of persons charged as aforesaid, or for making any enquiry respecting such persons, or for committing them to take their trials before the ordinary Courts, or before the special Courts described in this Act.

Saves the jurisdiction of the Supreme Courts.

VII. And it is hereby enacted, that this Act shall not be construed to alter or affect the jurisdiction of any of Her Majesty's Supreme Courts of Justice.

ACT NO. VIII. OF 1841.

1. Person sued for money or goods in which he has no interest, and which are claimed by a third party, may, if there is no collusion, be relieved by the Court summarily or by a feigned issue.

2. In either case decision shall be final.

3. If third party claimant omits to prosecute his claim, he may be declared for ever barred as against the original defendant, but may still sue the plaintiff.

4. Orders of a single Judge under this Act may be rescinded by the Court.

5. A single Judge may refer to the Court proceedings commenced before him.

6. Court may grant the like relief to the Sheriff etc., executing process, if goods seized are claimed by third parties.

7. Rules, &c., under this Act how to be entered. To have the force of judgments. Costs how to be recoverable.

An Act to enable Her Majesty's Supreme Courts within the territories of the East India Company to give relief against adverse claims made upon persons having no interest in the subject of such claims.

Person sued for money or goods in which he has no interest and which are claimed by a third party may if there is no collusion, be relieved by the Court summarily or by a feigned issue.

I. Whereas it often happens that a person sued at Law for the recovery of money or goods wherein he has no interest, and which are also claimed of him by some third party, has no means of relieving himself from such adverse claims but by a suit in Equity against the plaintiff and such third party, usually called a Bill of Interpleader, which is attended with expense and delay;

It is hereby enacted, that upon application made by or on the behalf of any defendant sued in any of Her Majesty's Supreme Courts in any action of assumpsit, debt, detinue, or trover, such application being made after declaration and before plea by affidavit or otherwise, showing that such defendant does not claim any interest in the subject matter of the suit, but that the right thereto is claimed or supposed to belong to some third party who has sued or is expected to sue for the same, and that such defendant does not in any manner collude with such third party, but is ready to bring into Court or to pay or dispose of the subject matter of the action in such manner as the Court (or any Judge thereof) may order or direct, it shall be lawful for the Court, or any Judge thereof, to make rules and orders, calling upon such third party to appear and to state the nature and particulars of his claim, and maintain or relinquish his claim, and upon such rule or order to hear the allegations as well of such third party as of the plaintiff, and in the mean time to stay the proceedings in such action, and finally to order such thirdy party to make himself defendant in the same or some other action, or to proceed to trial on one or more feigned issue or issues, and also to direct which of the parties shall be plaintiff or defendant on such trial, or with the consent of the plaintiff and such third party, their Counsel or Attornies, to dispose of the merits of their claims, and determine the same in a summary manner, and to make such other rules and orders therein as to costs and all other matters as may appear to be just and reasonable.

In either case decision shall be final.

II. And it is hereby enacted, that the judgment in any such action or issue as may be directed by the Court or Judge, and the decision of the Court or Judge in a summary manner, shall be final and conclusive against the parties and all persons claiming by, from, or under them.

If third party claimant omits to prosecute his claim he may be declared for ever barred as against the original defendant but may still sue the plaintiff.

III. And it is hereby enacted, that if such third party shall not appear upon such rule or order to maintain or relinquish his claim, being duly served therewith, or shall neglect or refuse to comply with any rule or order to be made after appearance, it shall be lawful for the Court or Judge to declare such third party, and all persons claiming by, from, or under him to be for ever barred from prosecuting his claim against the original defendant, his executors or administrators; saving nevertheless the right or claim of such third party against the plaintiff: and thereupon to make such order between such defendant and the plaintiff, as to costs or other matters, as may appear just and reasonable.

Orders of a single judge under this Act may be rescinded by the Court.

IV. And it is hereby provided, that every order, to be made in pursuance of this Act by a single Judge not sitting in open Court, shall be liable to be rescinded or altered by the Court in like manner as other orders made by a single Judge.

A single Judge may refer to the Court proceedings commenced before him. Court how to proceed.

V. And it is hereby enacted, that if upon application to a Judge, in the first instance or in any later stage of the proceedings, he shall think the matter more fit for the decision of the Court, it shall be lawful for him to refer the matter to the Court, and thereupon the Court shall and may hear and dispose of the same in the same manner as if the proceeding had originally commenced by the rule of Court instead of the order of a Judge.

Court may grant like relief to the Sheriff executing process if goods claimed are seized by third parties.

VI. And whereas difficulties sometimes arise in the execution of process against goods and chattels issued by or under the authority of the said Courts, by reason of claims made to such goods and chattels by assignees of bankrupts and other persons not being the parties against whom such process has issued, whereby Sheriffs and other officers are exposed to the hazard and expense of actions; and it is reasonable to afford relief and protection in such cases to such Sheriffs and other officers; It is therefore hereby further enacted, that when any such claim

shall be made to any goods or chattels taken or intended to be taken in execution under any such process or to the proceeds or value thereof, it shall and may be lawful to and for the Court from which such process issued, upon application of such Sheriff or other officers made before or after the return of such process, and as well before as after any action brought against such Sheriff or other officer, to call before them by rule of Court as well the party issuing such process as the party making such claim, and thereupon to exercise for the adjustment of such claims and the relief and protection of the Sheriff or other officer, all or any of the powers and authorities hereinbefore contained, and make rules and decisions as shall appear to be just according to the circumstances of the case; and the costs of all such proceedings shall be in the discretion of the Court.

Rules etc., under this Act how to be entered Costs how to be recoverable.

VII. And it is hereby enacted, that all rules, orders, matters and decisions to be made and done in pursuance of this Act, except only the affidavits to be filed, may, together with declaration in the cause, if any, be entered of record with a note in the margin, expressing the true date of such entry, to the end that the same may be evidence in future times if required, and to secure and enforce the payment of costs directed by any such rule or order, and every such rule or order so entered shall have the force and effect of a judgment, except only as to becoming a charge on any lands, tenements, or hereditaments ; and in case any costs shall not be paid within fifteen days after notice of the taxation and amount thereof given to the party ordered to pay the same, his agent or attorney, execution may issue for the same by *fieri facias* or *capias ad satisfaciendum*, adapted to the case, together with the costs of such entry and of the execution if by *fieri facias*, and such writ or writs may bear teste on the day of issuing the same whether in term or vacation, and the Sheriff or other officer executing any such writ shall be entitled to the same fees, and no more, as upon any similar writ grounded upon a judgment of the Court.

ACT No. X. OF 1841.

1. *Certificate and registry necessary to constitute ship a British ship.*
2. *What to be registering ports. Specified certificates of ships built at other ports, during voyage to port of registry.*
3. *Registrars under former law to continue.*
4. *Books of registry to be maintained.*
5. *Declaration required from owner before registry.*
6. *Further declaration in certain cases.*
7. *Appointment of qualified persons to examine and measure ships.*
8. *Rules of measurement.*
9. *In case of Steam vessels.*
10. *Alteration in cubic contents of engine room to necessitate fresh registry.*
11. *Measurement of ships with cargo on board.*
12. *Registered tonnage to be carved on main beam.*
13. *Local Governments may prescribe rules for registry of certain country craft.*
14. *Registered tonnage to be deemed true tonnage, barring alteration or error.*
15. *Penalty for illegal sale etc., of certificate. Penalty for not delivering up certificate in case of loss of ship, or change of ownership.*
16. *Change of master to be endorsed on certificate.*
17. *Registered name of ship not to be changed; and to be painted on stern.*
18. *Particulars of building, tonnage etc., to be furnished by person applying for registry.*
19. *New registry in case of loss of certificate.*
20. *Penalty for detention of certificate, and fresh registry in consequence thereof.*
21. *Fresh registry in case of alteration of ship, or change of owner.*
22. *Copies and extracts of registry to be evidence.*
23. *Penalty for false declaration, counterfeiting certificate, etc.*
24. *Local Government may continue the privileges of a British ship to ship coming into hands of Native Prince or ships built in native State.*

25. Fees how to be fixed.
26. Ships to belong to ports at which registered. Proclamation.

An Act for prescribing the rules to be observed, in order that ships or vessels belonging to ports within the territories, under the Government of the East India Company, or belonging to Native Princes or States or their subjects, may become entitled to the privileges of British ships under a proclamation of the Governor-General of India in Council, made in pursuance of the Statute 3rd and 4th Victoria Ch. 56.

Certificate and registry necessary to constitute ship a British ship.

I. Whereas by a Statute passed in the 3rd and 4th years of Her Majesty Queen Victoria, entitled "An Act to regulate the trade of ships built and trading within the limits of the East India Company's Charter," it is enacted "That it shall be lawful for the Governor-General of India in Council, by proclamation, to declare that all ships or vessels built or to be built within the limits of the Charter of the East India Company, being owned by Her Majesty's subjects for whom the said Governor-General in Council has power to legislate, and belonging, under the regulations hereinafter provided for, to any ports in the territories under the Government of the said Company, shall be deemed to be British ships for all the purposes of trade within the said limits, including the Cape of Good Hope, and the territories and dependencies thereof; provided that upon such declaration being made the said Governor-General in Council shall, and the said Governor-General in Council is hereby accordingly empowered to make Regulations, to be enforced by suitable penalties, concerning the registering, licensing and ascertaining the admeasurement of the tonnage and burden, and generally for the trading within the limits aforesaid of such ships or vessels." And whereas it is further enacted in the same Statute as follows, that is to say," And whereas it may be expedient to admit to similar privileges and advantages any ships or vessels belonging to Native Princes or States in subordinate alliance with, or having subsidiary treaties with the East India Company, or owned by subjects of any such Princes or States, be it therefore enacted that the Governor-General of India in Council may, by such Regulations as aforesaid, such Regulations being subject as aforesaid, admit to the privileges of British ships for the purposes of trade within the limits of the Charter of the said Company, including the Cape of Good Hope, and the territories and dependencies thereof, or to any of such privileges and advantages, any ships or vessels belonging to such Princes or States, or any of them, or owned by subjects of any such Princes or States; but any such Regulations shall provide for the granting to such ships or vessels fit and convenient licences or passes, and generally for the trading within the limits aforesaid of such ships or vessels." And whereas in pursuance of such enactments, it is expedient to frame such Regulations as are mentioned therein, the compliance with which shall be required in order that ships or vessels may be deemed British ships, or be admitted to the privileges and advantages of British ships under such proclamation as aforesaid;

It is hereby enacted, that no ship or vessel shall be deemed a British ship under such proclamation as aforesaid (except as regards ships or vessels registered before the passing of this Act, or having a pass at the time of passing thereof) unless the person or persons claiming property therein shall have caused the same to have been registered at some one of the ports hereinafter mentioned with the territories of the East India Company, and shall have obtained a certificate of such registry from the person or persons authorised to make such registry and grant such certificate as hereinafter directed; the form of which certificate shall be as follows:

"This is to certify, that in pursuance of the Act No X. of 1841 of the Governor-General of India in Council (here insert the names and occupations and residence of subscribing owners) having made and subscribed the declaration required by the said Act and having declared that (he or they) together with (names, occupations and residence of non-subscribing owners,) (is or are) sole owner or owners, in the proportions specified on the back hereof, of the ship or vessels called the (ship's name) of (place at which the vessel shall be registered) which is of the burthen of (number of tons), and whereof (master's name) is Master, and that the said ship or vessel was (when and where built) and (name and employment of surveying officer) having certified to us, that the said ship or vessel has (number) decks and (number) masts, that her (here insert the measurement as ascertained by the rules hereinafter mentioned) that she is (how rigged) rigged with a (standing or running) bowsprit, is (description of stern) sterned, (carvel or clincher) built, has (whether any or no) gallery, and (kind of head, if any) head: and the said subscribing owners having consented and agreed to the above description, the said ship or vessel called the (name) has been duly registered at the port of (name

of port), certified under our hands at the Custom House, in the said port of (name of port), this (date) day of (name of month) in the year (words at length.)

(Signed)————Collector or Register of shipping.

And on the back of such certificate of registry, there shall be an account of the parts or shares held by each of the owners mentioned and described in such certificate, in the form and manner following :

Names of several owners within mentioned.	*Number of shares held by each owner.*
Name	... ... Thirty-two.
Name	... . Sixteen.
Name	... ... Eight.
	&c. &c."

(Signed)————Collector.

What to be registering port. Specified certificates of ship built at other ports during voyage to port of registry.

II. And it is hereby enacted, that the ports at which registration shall be made, shall be the ports of Calcutta, Madras, Bombay, Singapore, and such other places subordinate to the local Governments of India, as such Governments respectively may from time to time, declare to be registering ports under this Act. Provided, that ships or vessels built at any place, other than any of such ports, shall be allowed to make their first voyage to any of such ports, being the ports at which it is intended they shall be registered under a certificate to be granted by the principal British officer at the place where the ship is built, or if there be no British officer in authority there, then by three merchants of such place, which certificate shall contain all the particulars with regard to the ownership and description of the ships or vessels contained in a certificate of registry, and shall specify the ports at which it is intended that they shall respectively by registered, and which certificate shall have all the effect of a certificate of registry under this Act, during the first voyage from the place of building to the ports at which the ships or vessels respectively shall be afterwards registered. Provided that such ships or vessels, so proceeding on their first voyage as aforesaid, shall be deemed British ships only whilst duly prosecuting such first voyage for the purpose of registry, and if they be not registered within a reasonable time after their arrival at the port of registry, the owner or owners, or Master, or other person having or taking the command or charge of such ship or vessel, shall be liable on information in any Court of Her Majesty or the East India Company by the Advocates-General of the respective Presidencies to a penalty not exceeding 5,000 Rupees.

Registrars under former law to continue.

III. And it is hereby enacted, that the persons authorized to make such registry, and to grant such certificates as aforesaid, shall be the persons now authorized to make registry of ships or vessels under the Statute 3 and 4 W. 4. Ch. 55, and such other or different persons as the local Governments may from time to time appoint for the ports under their respective Presidencies.

Books of registry to be maintained.

IV. And it is hereby enacted, that at every port where registry shall be made in pursuance of this Act, a book shall be kept by the registering officer, in which all the particulars contained in the form of the certificate of the registry hereinbefore directed to be used shall be duly entered ; and every registry shall be numbered in progression, beginning such progressive numeration at the commencement of each and every year. And such registering officer shall forthwith, or within one month at the furthest, send to the Government of the Presidency to which he is subordinate, a true and exact copy, together with the number of every certificate which shall be by him so granted.

Declaration required from owner before registry.

V. And it is hereby enacted, that no registry shall henceforth be made or certificate be granted until the following declaration be made or subscribed before the registering officer, by the owner or major part of the owners of the ship or vessel required to be registered :—

I, A. B., of (place of residence and occupation) do truly declare that the ship or vessel (name) of (port or place) whereof (master's name) is at present Master, being (kind of build, burthen, et cetera, as described in the certificate of the surveying officer) was (when and where) built, and that I the said (A.B.) and the other owners (names and occupations if any and where they respectively reside) am (or are) sole owner (or owners) of the said vessel, and that no other person or persons whatever hath or have any right, title, interest, share, or property therein or thereto ; and that I the said (A.B.) and the said other owners (if any) am (or are) truly and *bonâ fide* a subject (or subjects) of Her Majesty, for whom the

Governor-General of India in Council, has power legislate, and that no person not being subject as aforesaid, directly or indirectly, hath any share or part interest in the said ship or vessel. Provided that if the registering officer shall see occasion to doubt the truth of any of the facts contained in the above declaration, he shall not deem such declaration to be conclusive, but may refuse the registry or certificate, and his discretion exercised in this behalf shall be subject only to an appeal to the local Government to which he is subordinate.

Further declaration in certain cases.

VI. And it is hereby enacted, that in case the required number of joint owners of any ship or vessel shall not personally attend to make and subscribe the declaration hereinbefore directed to be made and subscribed, then and in such case such owner or owners as shall personally attend and make and subscribe the declarations aforesaid, shall further declare that the part owner or part owners of such ship or vessel then absent, is or are not resident within twenty miles of such port or place, and hath or have not, to the best of his or their knowledge or belief, wilfully absented himself or themselves in order to avoid the making the declaration hereinbefore directed to be made and subscribed, or is or are prevented, by illness from attending to make and subscribe the said declaration.

Appointment of qualified persons to examine and measure ship.

VII. And in order to enable the registering officer to grant a certificate truly and accurately describing every ship or vessel to be registered in pursuance of this Act, and also to enable all other officers of customs on due examination, to discover whether any such ship or vessel is the same with that for which a certificate is alleged to have been granted, it is hereby enacted, that previous to the registering or granting of any certificate of registry as aforesaid some one or more person or persons appointed by the local Governments respectively, taking to his or their assistance, if he or they shall judge it necessary, one or more person or persons skilled in the building and admeasurement of ships, shall go on board of every such ship or vessel that is to be registered, and shall strictly and accurately examine and admeasure every such ship or vessel as to all and every particular contained in the form of the certificate hereinbefore directed in the presence of the Master, or of any other person who shall be appointed for that purpose on the part of the owner or owners, or in his or their absence by the said Master, and shall deliver a true and just account in writing of all such particulars of the build, description, and admeasurement of every such ship or vessel as are specified in the form of the certificate above recited, to the officer authorized to make such registry and grant such certificate of registry as aforesaid; and the said Master or other person attending on the part of the owner or owners is hereby required to sign his name also to the certificate of such surveying or examining officer, in testimony of the truth thereof, provided such Master or other person shall consent and agree to the several particulars set forth and described therein.

Rules of measurement.

VIII. And it is hereby enacted, that from and after the commencement of this Act the tonnage of every ship or vessel required by law to be registered shall, previous to her being registered, be measured and ascertained while her hold is clear, and according to the following rule; (that is to say) divide the length of the upper deck between the afterpart of the stem and the forepart of the sternpost into six equal parts. Depths: at the foremost, the middle, and the aftermost of those points of division, measure in feet and decimal parts of a foot, the depths from the underside of the upper deck to the ceiling at the limber strake. In the case of a break in the upper deck, the depths are to be measured from a line stretched in a continuation of the deck. Breadths: divide each of those three depths into five equal parts and measure the inside breadths at the following points, videlicet, at one-fifth and at four-fifths from the upper deck of the foremost and aftermost depths, and at two-fifths and four-fifths from the upper deck of the midship depth. Length: at half the midship depth measure the length of the vessel from the afterpart of the stem to the forepart of the sternpost, then to twice the midship depth add the foremost and the aftermost depths for the sum of the depths: add together the upper and lower breadths at the foremost division, three times the upper breadth and the lower breadth at the midship division, and the upper and twice the lower breadth at the after division, for the sum of the breadths; then multiply the sum of the depths by the sum of the breadths, and this product by the length, and divide the final product by three thousand five hundred, which will give the number of tons of register. If the vessel have a poop or half deck, or a break in the upper deck, measure the inside mean length, breadth and height of such part thereof as may be included within the bulk-head; multiply these three measurements together and dividing the product by 92.4, the quotient will be the number of tons to be added to the result as above found, in order to ascertain the tonnage of open vessels, the depths are to be measured from the upper edge of the upper strake.

In case of Steam vessels.

IX. And it is hereby provided, that in each of the several rules hereinbefore prescribed, when applied for the purpose of ascertaining the tonnage of any ship or vessel propelled by steam, the tonnage due to the cubical contents of the engine room shall be deducted from the total tonnage of the vessel as determined by either of the rules aforesaid, and the remainder shall be deemed the true register tonnage of the said ship or vessel. The tonnage due to the cubical contents of the engine room shall be determined in the following manner ; that is to say, measure the inside length of the engine room in feet and decimal parts of a foot from the foremost to the aftermost bulk-head ; then multiply the said length by the depth of the ship or vessel at the midship division as aforesaid, and the product by the inside breadth at the same division at two-fifths of the depth from the deck taken as aforesaid, and divide the last product by 92.4 ; and the quotient shall be deemed the tonnage due to the cubical contents of the engine room.

Alteration in cubic contents of engine room to necessitate fresh registry.

X. And it is hereby provided, that the tonnage due to the cubical contents of the engine room and also the length of the engine room shall be set forth in the certificate of registry as part of the description of the ship or vessel, and that any alteration of such tonnage due to the cubical contents of the engine room or of such length of the engine room, after registry, shall be deemed to be an alteration requiring registry *de novo* within the meaning of the said Act for the registering of ships or vessels.

Measurement of ships with cargo on board.

XI. And it is hereby enacted, that for the purpose of ascertaining the tonnage of all such ships, whether belonging to the United Kingdom or otherwise, as there shall be occasion to measure while their cargoes are on board, the following rule shall be observed and is hereby established ; (that is to say,) measure, first, the length on the upper deck between the afterpart of the stem and the forepart of the sternpost ; secondly, the inside breadth on the underside of the upper deck at the middle point of the length ; and, thirdly, the depth from the underside of the upper deck down the pump-well to the skin ; multiply these three dimensions together and divide the product by one hundred and thirty, and the quotient will be the amount of the register tonnage of such ships.

Registered tonnage to be carved on main beam.

XII. And it is hereby enacted, that the true amount of the register tonnage of every merchant ship or vessel belonging to the United Kingdom, to be ascertained according to the rule by this Act established in respect of such ships, shall be deeply carved or cut in figures of at least three inches in length, on the main beam of every such ship or vessel, prior to her being registered.

XIII. Repealed by Act XI. 1850.

Registered tonnage to be deemed true tonnage, barring alteration or error.

XIV. And it is hereby enacted, that whenever the tonnage of any ship or vessel shall have been ascertained according to the rules herein prescribed, such account of tonnage shall ever after be deemed the tonnage of such ship or vessel, and shall be repeated in every subsequent registry of such ship or vessel, unless it shall happen that any alteration has been made in the form and burthen of such ship or vessel, or it shall be discovered that the tonnage of such ship or vessel had been erroneously taken and computed.

Penalty for illegal sale etc., of certificate. Penalty for not delivering up certificate in case of loss of ship, or change of owner ship.

XV. And it is hereby enacted, that if such certificate as aforesaid shall be sold, lent, or otherwise disposed of to any person or persons whatever other than those for whose use it is granted, or shall be made use of for the service of any other ship or vessel than the ship or vessel for which it is granted, such certificate shall thenceforth be utterly void, and the Master or any owner of the ship or vessel who shall be proved to have sold, lent, or disposed of such certificate or made use of the same as aforesaid, or shall have concurred in or been privy to the committing any such offence, shall be liable upon conviction by information as aforesaid to a penalty not exceeding 10,000 rupees. And in case such ship or vessel shall be lost or taken by the enemy, burnt, or broken up, or otherwise prevented from returning to the port at which she is registered, or shall on any account have lost and forfeited the privileges of a British ship, or shall have been seized and legally condemned for illicit trading, or shall have been taken in execution for debt and sold by due process of law, or shall have been sold to the Crown or the East India Company, or shall under any circumstances have been registered *de novo*, the certificate, if preserved, shall be delivered up, within one month after the arrival of the Master in any port or place in the territories of East India Company, to the registering officer at such port ; in default whereof the Master or any of the owners shall be liable on conviction by information as aforesaid to a penalty not exceeding Rupees 5,000. And if any person, not being such subject as aforesaid, shall purchase or otherwise become entitled to the whole or to any part or share of or any interest in such ship or vessel, and the same shall be within the limits of any port of the territories of the East India Company, then and in such case the certificate of registry shall,

within seven days after such purchase or transfer of property in such ship or vessel, be delivered up to the registering officer at such port, and if such ship or vessel shall, be in any place not within the territories of the East India Company when such purchase or transfer of property shall take place, then the certificate shall be delivered up within fourteen days after the arrival of such ship or vessel, or of the Master thereof in any port of the territories of the East India Company, to the registering officer at such port; in default whereof the Master or any of the owners shall be liable on conviction before any Justice of the Peace in a penalty not exceeding 5,000 Rupees, recoverable in manner provided by Act No. II. of 1839.

Change of master to be endorsed on certificate.

XVI. And it is hereby enacted, that when and so often as the Master of any ship or vessel registered in manner hereinbefore directed shall be changed, the Master or owner of such ship or vessel shall deliver to the person or persons hereinbefore authorized to make such registry and grant such certificates of registry at the port where such change shall take place, if it be a port within the territories of the East India Company, the certificate of registry belonging to such ship or vessel, who shall thereupon indorse and subscribe a memorandum of such change, and shall forthwith give notice of the same to the proper officer of the port or place where such ship or vessel was last registered pursuant to this Act, who shall likewise make a memorandum of the same in the book of registers which is hereby directed and required to be kept, and shall forthwith give notice thereof in like manner as of the original entry. But if the change do not take place in any port within the territories of the East India Company, then such delivery, memorandum and indorsement shall be made and notice given at the first port within the territories of the East India Company at which the new Master shall arrive after such change. In default of which delivery of the certificate, such new Master or any of the owners shall be liable on conviction before a Justice of the Peace, to a penalty not exceeding 5,000 rupees recoverable as aforesaid.

Registered name of ship not to be changed; and to be painted on stern.

XVII. And it is hereby enacted, that it shall not be lawful for any owner or owners of any ship or vessel, to give any name to such ship or vessel other than that by which she was first registered in pursuance of this Act, and that the owner or owners of all and every ship or vessel which shall be so registered, shall, before such ship or vessel after such registry, shall begin to take in any cargo, paint, or cause to be painted, in white or yellow letters of a length of not less than four inches. upon a black ground, on some conspicuous part of the stern, the name by which such ship or vessel shall have been registered pursuant to this Act, and the port to which she belongs in a distinct and legible manner, and shall so keep and preserve the same, and that if such owner or owners, or Master or other person having or taking the charge or command of such ship or vessel, shall permit such ship or vessel to begin to take in cargo before the name of such ship or vessel has been so painted as aforesaid, or shall wilfully alter, erase, obliterate, or in any wise hide or conceal, or cause or procure or permit the same to be done, or shall in any written or printed paper, or other document describe such ship or vessel by any name other than that by which she was first registered pursuant to this Act, or shall verbally describe, or cause or procure or permit such ship or vessel to be described by any other name to any officer or officers of revenue in the due execution of his or their duty, then and in every such case the certificate of registry shall thenceforth become utterly void, and such owner or owners, or Master or other person having or taking the charge or command of such ship or vessel shall be liable on information as aforesaid to a penalty not exceeding 10,000 Rupees.

Particulars of building, tonnage etc., to be furnished by person applying for registry.

XVIII. And it is hereby enacted, that all and every person and persons who shall apply for a certificate of the registry of any ship or vessel, shall and they are hereby required to produce to the person or persons authorized to grant such certificate, a true and full particular under the hand of the builder of such ship or vessel, or in case the want of such certificate can be satisfactorily accounted for, then to produce other sufficient evidence of the proper denomination, and of the time when and the place where such ship or vessel was built, and also an exact account of the tonnage of such ship or vessel, and shall also make and subscribe a declaration before the person or persons hereinbefore authorized to grant such certificate, that the ship or vessel for which such certificate is required is the same with that which is so described by the builder as aforesaid.

New registry in case of loss of certificate.

XIX. And it is hereby enacted, that if the certificate of registry of any ship or vessel shall be lost or mislaid, so that the same cannot be found or obtained for the use of such ship or vessel when needful, and proof thereof shall be made to the satisfaction of the registering officer of the port at which the ship is registered, such officer shall and may, where the certificate shall have been lost or mislaid

permit such ship or vessel to be registered *de novo*, and a certificate thereof to be granted. Provided always that if such ship or vessel be absent and far distant from the port to which she belongs, or by reason of the absence of the owner or owners, or of any other impediment, registry of the same cannot then be made in sufficient time, such registering officer shall and may grant a license for the present use of such ship or vessel, which license shall, for the time and to the extent specified therein and no longer, be of the same force and virtue as a certificate of registry granted under this Act. Provided always, that if the certificate of registry shall at any time afterwards be found, the same shall be forthwith delivered to the proper officers of Customs to be cancelled, and that no illegal use be made of the same, in default whereof the original certificate and renewed certificate and license shall thenceforth become utterly void, and any person wilfully detaining the certificate so required to be cancelled, or making any illegal use thereof, shall be liable on conviction before any Justice in a penalty not exceeding 5,000 Rupees recoverable as aforesaid.

Penalty for detention of certificate, and fresh registry in consequence thereof.

XX. And whereas it is not proper that any person under any pretence whatever should detain the certificate of registry of any ship or vessel, or hold the same for any purpose other than the lawful use and navigation of the ship or vessel for which it was granted, it is therefore hereby enacted, that in case any person who shall have received or obtained, by any means or for any purpose whatever, the certificate of the registry of any such ship or vessel (whether such person shall claim to be the Master or to be the owner or one of the owners of such ship or vessel, or not,) shall wilfully detain and refuse to deliver up the same to the proper officers of Customs, for the purposes of such ship or vessel, as occasion shall require, or to the person or persons having the actual command, possession, and management of such ship or vessel as the ostensible and reputed Master, or as the ostensible and reputed owner or owners thereof, it may and shall be lawful to and for any such last mentioned person to make complaint on oath of such detainer and refusal to any Justice of the Peace, residing near to the place where such detainer and refusal shall be, and on such complaint the said Justice shall and is hereby required by warrant under his hand and seal, to cause the person so complained against to be brought before him to be examined touching such detainer and refusal, and if it shall appear to the said Justice, on examination of such person or otherwise, that the said certificate of registry is not lost or mislaid, but is wilfully detained by the said person, such person shall be subject on conviction before such Justice to a penalty not exceeding 1,000 rupees, recoverable as aforesaid, and the said Justice shall, and is hereby required to certify the aforesaid detainer, refusal, and conviction to the person or persons who granted such certificate of registry for such ship or vessel, who shall on the terms and conditions of law being complied with make registry of such ship or vessel *de novo*, and grant a certificate thereof conformably to law, notifying on the back of such certificate the ground upon which the ship or vessel was so registered *de novo*; and if the person who shall have detained and refused to deliver up such certificate of registery as aforesaid, or shall be verily believed to have detained the same, shall have absconded, so that the said warrant of the Justice cannot be executed upon him, and proof thereof shall be made to the satisfaction of the registering officer of the port at which the ship or vessel was registered, it shall be lawful for the said officer to permit such ship or vessel to be registered *de novo*; or otherwise, in his discretion, to grant a license for the present use of such ship or vessel in like manner as is hereinbefore provided in the case wherein the certificate of registry is lost or mislaid.

Fresh registry in case of alteration of ship, or change of owner.

XXI. And it is hereby enacted, that if any ship or vessel, after she shall have been registered pursuant to the directions of this Act, shall in any manner whatever be altered so as not to correspond with all the particulars contained in the certificate of her registry, or if any alteration shall take place in the ownership of any ship or vessel, or of any share or shares thereof, in such cases such ship or vessel shall be registered *de novo* in manner hereinbefore required, as soon as she returns to the port to which she belongs, or to any other port within the territories of the East India Company, on failure whereof such ship or vessel shall be deemed to be a ship or vessel not duly registered, and any person making use of a certificate for the purposes of any ship or vessel which has been granted in respect of the same, after the same ought to have been registered *de novo*, shall be liable on conviction before any Justice to a penalty not exceeding 5, 000 rupees recoverable as aforesaid.

Copies and extracts of registry to be evidence.

XXII. And wheras great inconvenience may arise from the registering officers being served with subhœnas requiring them to bring with them and produce, on trials in Courts of Law relative to the ownership of vessels or otherwise, the declarations required to be taken by the owners thereof prior to the registering thereof,

and the books of registry, or copies or extracts therefrom. And whereas it would tend much to the dispatch of business if the attendance of such registering officers with the same upon such trials were dispensed with : it is therefore hereby enacted, that the registering officer at any port or place, and the person or persons acting for them respectively, shall, upon every reasonable request by any person or person whomsoever, produce and exhibit for his, her, or their inspection and examination any declaration made by any such owner or owners, and also any register or entry in any book or books of registry required, and shall upon every reasonable request by any person or persons whomsoever, permit him, her, or them to take a copy or copies, or an extract or extracts thereof respectively, and that the copy and copies of any such oath or declaration, register or entry, shall upon being proved to be true copy or copies thereof respectively, be allowed and received as evidence upon every trial at law, without the production of the original or originals, and without the testimony or attendance of any registering officer, or other person or persons, acting for them respectively, in all cases, as fully and to all intents and purposes as such originals if produced by any registering officer, or other person or persons acting for them, could or might legally be admitted or received in evidence.

Penalty for false declaration, counterfeiting certificate, etc.

XXIII. And it is hereby enacted, that if any person or persons shall falsely make declaration to any of the matters hereinbefore required to be verified by declaration, or if any person or persons shall counterfeit, erase, alter, or falsify any certificate or other instrument in writing required or directed to be obtained, granted, or produced by this Act, or shall knowingly or wilfully make use of any certificate or other instrument so counterfeited, erased, altered, falsified, or shall wilfully grant such certificate or other instrument in writing knowing it to be false, such person or persons shall for every such offence be liable, on conviction upon information as aforesaid, to a penalty not exceeding 10,000 Rupees. And if any such offence be committed by the owner of any ship or vessel, the certificate of such ship or vessel shall thenceforth be wholly void.

Local Government may continue the privileges of British ship to ship coming into hands of Native Prince or ship built in native State.

XXIV. And it is hereby enacted, that when any ship or vessel duly registered under this Act, or sailing under the British Navigation Law, shall come to be owned by a Native Prince or State or by any subject of such Native Prince or State as aforesaid, it shall be lawful for the Governor of Fort William in Bengal, or for the Governor in Council of any Presidency, to continue to such ship or vessel the privileges and advantages of a British ship for the purposes aforesaid, by a pass to be issued under the Company's seal and subscribed by a Secretary to Government, stating the voyage or voyages for which the same is to have effect, and the period for which it is to last ; and it shall be lawful for the Governor of Fort William in Bengal, or the Governor in Council of any Presidency, to issue a similar pass conferring the privileges and advantages of a British ship for the purposes aforesaid under this Act to any ship or vessel built within the dominions of such Native Prince or State, and owned by such Prince or State, or by any of their subjects ; provided always, that the ships belonging to Native Princes or States or their subjects, in respect of which passes may be granted under this Act, shall during voyage or voyages or the period for which any such pass shall be granted, be commanded by a subject of Her Majesty for whom the Governor-General in Council has power to legislate. *

Fees how to be fixed.

XXV. And it is hereby enacted, that the fees demandable in respect of the granting any certificate or pass under this Act shall be fixed from time to time according to the directions of the Governor-General in Council, but so that the same shall not exceed the amount of fees now payable for registering or granting passes to ships or vessels at the different Presidencies.

Ships to belong to ports at which registered. Proclamation.

XXVI. And it is hereby declared and enacted, that all ships or vessels registered under this Act shall be deemed to belong to the ports at which they shall be respectively registered. And all ships or vessels being registered, or in respect of which passes may have been granted which are unexpired at the time of passing this Act, shall, for the purpose of being deemed British ships, be deemed to belong to the ports at which they may have been registered, or when passes shall have been granted which are unexpired, at which such passes may have been respectively granted. And such ships or vessels, built and owned as required by the Statute 3 and 4 Vict. Cap. 56, shall continue subject to all the rules in force at the respective Presidencies before the passing of this Act, touching the registering, measurement, granting passes or other requisitions in respect of the same, and shall not be subject to the provisions of this Act, or any provisions of the Statute law, a compliance with which may heretofore have been necessary in order that ships or vessels built and owned as aforesaid might be deemed British ships for the purposes of trade.

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* *See* Act XI. 1850. Sec. 2.

PROCLAMATION.

The Governor-General of India in Council hereby declares that all ships and vessels, built or to be built within the limits of the Charter of the East India Company (as those limits are defined by the Statute 3d and 4th of Queen Victoria, Cap. 26 entitled "An Act further to regulate the trade of ships built and trading within the limits of the East India Company's Charter,") being owned by Her Majesty's subjects for whom the said Governor-General in Council has power to legislate, and belonging under the provisions of the Act passed by the Governor-General in Council No. X. of 1841, to any ports in the territories under the government of the East India Company, shall be deemed to be British ships for all purposes of trade within the said limits, including the Cape of Good Hope and the territories and dependencies thereof.*

ACT No. XI. OF 1841.

1. Repeals existing regulations regarding Military Courts of Requests, saving jurisdiction of a single officer in Madras and Bombay in certain cases.

2. Personal actions not concerning caste or real property against persons amenable to articles of war for sums not exceeding Rupees 200, cognizable by Military Court only.

3. Military Courts how to be convened. Their constitution.

4. When to be convened.

5. Mode of procedure. Examination and attendance of parties. Examination of absent parties and witnesses.

6. Procedure in case of witnesses not attending.

7. Or interrupting proceedings.

8. Record to be kept and transmitted to Commanding Officer.

9. Rupees 200 only recoverable from any one defendant. What interest may be allowed. Contract when to be in writing. Period of limitation.

10. Court may proceed in absence of parties on proof of notice.

11. Return of proceedings for revision; second decree to be final, except for errors of law. Fresh evidence may be received on new trial.

12. Written claim to be delivered to Station Officer by Plaintiff, and procedure thereon.

13. Publication of decrees.

14. Execution of decrees.

15. Mode of execution when general.

16. Ditto when special.

17. Beyond the frontier, action may be for any amount, but appeal to lie to Sudder Court in case of claims beyond Rupees 200.

18. Time of application of Act.

An Act for consolidating and amending the Regulations concerning Military Courts of Requests for native officers and soldiers in the service of the East India Company.

Repeals existing regulations regarding Military Courts of Requests saving jurisdiction of a single officer in Madras and Bombay in certain cases.

I. It is hereby enacted, that all Regulations and parts of Regulations concerning Military Courts of Requests are repealed; provided always, that nothing in this Act contained shall be held to alter or affect the jurisdiction of a single officer duly authorized and appointed under the rules in force in the Madras and Bombay Presidencies for the trial of small suits in military bazars at Cantonments and Stations occupied by the troops of those Presidencies respectively, or the trial by punchayet of suits against military persons according to the rules in force under the Madras Presidency.†

Personal actions not concerning caste or real property against persons amenable to articles of war for sums not exceeding Rupees 200, cognizable by Military Court only.

II. And it is hereby enacted, subject to the aforesaid proviso, that within the territories of the East India Company actions of debt and other personal actions against native officers, soldiers and other persons amenable to the Articles of War for the native forces in the military service of the East India Company, or residing within any station or cantonment and carrying on any trade or business in a military bazar, shall be cognizable before a Military Court and not elsewhere,

* Act XI. 1850, to be read with and as part of this Act.

† Bill No. 8 of 1870 has repealed the first twenty-one words of this Section.

provided the value in question shall not exceed 200 Rupees, and the defendant was a person of the description abovementioned when the cause of action arose, and when the suit was instituted. Provided that no suit shall be brought before any Military Court under this Act to determine any dispute of caste or concerning any right to real property.

Military Courts how to be convened. Their constitution.

III. And it is hereby enacted, that the Commanding Officer of any station or cantonment, or officer commanding any portion of troops in the field, is authorized to convene such Military Courts. And such Courts shall be composed, according to the orders of the commander-in-Chief for the time being of the Presidency within which the station or cantonment is situate, or, in the absence of such orders, according to the discretion of the convening officer, either of not less than three European commissioned officers, or of not less than three native commissioned officers, and, in the latter case, with a European officer of not less than five years' standing, to superintend and record the proceedings. Provided that, if there be not a sufficient number of officers to constitute a Court at the station or cantonment where any cause of action may arise, or where the defendant may be residing, the suit shall be determined at the nearest station or cantonment where a Military Court can be duly constituted as aforesaid.

When to be convened.

IV. And it is hereby enacted, that such Military Courts shall be convened monthly, and shall be holden on some convenient day before the issue of the pay for each month.

Mode of procedure. Examination and attendance of parties. Examination of absent parties and witnesses.

V. And it is hereby enacted, that the forms of proceeding in every such Court shall be conformable to the usages observed on trials before Courts Martial held for the Native troops in the service of the East India Company, as far as the same are applicable. And any such Court shall have the like power of summoning witnesses as is possessed by Courts Martiral. Provided always, that every such Court shall have the power of examining the parties to any suit, and of requiring or dispensing with their attendance at its discretion. And every such Court shall have the like power of taking the examinations of absent parties and witnesses as is possessed by the Civil Courts of the East India Company, under Act No. VII. of 1841; Provided, that the depositions taken under a commission issued by any Military Court of Requests shall be receivable in evidence before any such Court subsequently held; Provided also, that commissions may be issued by Military Courts of Requests under this Act pursuant to the provisions of Act No. VII. of 1841, notwithstanding the Courts to which the commissions may be directed are not situate beyond the jurisdiction of such Military Courts.

Procedure in case of witnesses not attending.

VI. And it is hereby enacted, that witnesses omitting to attend, refusing to give evidence, or ommitting perjury, and persons suborning witnesses to commit perjury, shall be tried and punished, if amenable to Articles of War, by a court Martial, subject to all the rules contained in such Articles of War for the punishment of such offences in regard to trials for Military offences; and if not amenable to Articles of War, they may be tried and punished in the nearest of the Courts of the East India Company for the administration of criminal justice, (whether such Court have ordinarily jurisdiction over such person in criminal matters or not) in like manner as if such offences had been committed in regard to any trial before such nearest Court.

Or interrupting proceedings.

VII. And it is hereby enacted, that any person, Civil or Military, European or Native, using menacing words, signs, or gestures, or otherwise interrupting (whether being personally present or not), the proceedings of any Military Court of Requests, shall be punishable, if amenable to Articles of War, by a Court Martial, or if not amenable to Articles of War, in the nearest of the Courts of the East India Company for the administration of criminal justice (whether such Court have ordinarily jurisdiction over such person in criminal matters or not), in like manner as if the offence had been committed in regard to any proceeding of the Court to which it is so referred.

Record to be kept and transmitted to Commanding Officer.

VIII. And it is hereby enacted, that a record shall be kept of proceedings in every case tried before any Military Court of Requests. And such record shall contain the substance of the evidence given, and the nature of such evidence as may have been rejected on the ground of its not being legally admissible or relevant, or on other grounds, and the same shall be signed by the Members of the said Court. And such record or a copy thereof shall, with as little delay as is practicable, after the conclusion of the proceedings, be transmitted by the European President or superintending officer of every such Court, to the Officer commanding the station or cantonment.

Rupees 200 only recoverable from any one defendant what interest may be allowed

IX. And it is hereby enacted. that where a demand shall exceed the amount of 200 rupees, or where several separate demands shall exceed such amount, no more shall be recoverable from any one defendant by the same plaintiff or plaintiffs than the sum of 200 Rupees only- and the judgment in respect of any demand in

Contract when to be in writing. Period of limitation.

a Court of Requests shall be a bar to the recovery of the same demand or of any other or further demand for the same cause of action in any other Court whatever, provided that the liability accrued before the time of instituting the suit in the Military Court—and it shall be competent for every such Military Court to investigate any counter-claim alleged by any defendant. And it shall be competent for every such Military Court to allow the interest for money agreed on between the parties, provided the same does not exceed the usage of the country in ordinary money transactions. And every contract made after the passing of this Act, upon which a demand for debt exceeding 20 Rupees is founded, not being money due for goods bought and delivered, shall be in writing and expressed in the language of the defendant and signed by him, or on his behalf by some other person than the plaintiff. Provided that, it shall not be competent to any Court of Requests to admit any suit for a debt which has accrued upwards of six years, unless a direct promise to pay made within six years of the commencement of the suit be proved.

Court may proceed in absence of parties on proof of notice.

X. And it is hereby enacted, that on failure of either of the parties to a suit to attend, either personally or by representative, or to produce his witnesses, according as he shall be required by any Military Court of Requests, such Court, on being satisfied that the party has been duly apprized of what is required of him, may proceed to the termination of the suit in his absence. And if the decree in any such case shall be against the plaintiff, it shall not be competent for him to commence a new suit for the same cause of action.

Return of proceedings for revision, second decree to be final, except for errors of law. Fresh evidence may be received on new trial.

XI. And it is hereby enacted, that it shall be lawful for the Commanding Officer to whom the proceedings have been transmitted as aforesaid to return the same for revision either by the same or another Military Court of Requests. And in every such case the second decree shall be final, unless for error in points of law, when the same shall be transmitted to the Commander-in-Chief, who shall have power to annul the proceedings without prejudice to any future suit. Provided always, that in the case of any new trial the Court may receive evidence which was not adduced at the first trial.

Written claim to be delivered to Station Officer by Plaintiff, and procedure thereon.

XII. And it is hereby enacted, that every plaintiff shall prefer his claim in writing, and shall deliver the same to the Station Staff-Officer. The claims shall be entered in a Schedule by the Station Staff-Officer, which schedule is to be sent to Adjutants of corps or heads of departments two days at least before the assembly of the Court, and the Adjutants or heads of departments shall be responsible that the defendants belonging to their respective Corps or establishments have been duly summoned.

Publication of decrees.

XIII. And it is hereby enacted, that every decree of any Military Court of requests shall be published in the Station Orders before the same is executed.

Execution of decrees.

XIV. And it is hereby enacted, that the execution of decrees of Military Courts of Requests may be either general or special, according to the sentence of the Court. Provided always, that the Commanding Officer may, notwithstanding the direction of the Court, order that the execution shall be general or special at his discretion.

Mode of execution when general.

XV. And it is hereby enacted, that in cases in which the execution is to be general, the debt, if not paid forthwith, shall, under the authority of the Commanding Officer in writing to be signed by him, be levied by seizure and public sale of such of debtor's goods (under which term are included houses or other erections within the limits of stations and cantonments) as may be found within the limits of the station or cantonment, or elsewhere; and if sufficient goods are not to be found, the debtor, if not a soldier, shall be arrested and imprisoned in any civil gaol near to the station or cantonment, (for which purpose the provisions of Act No. II. of 1840 shall be applicable) or in any other convenient place of confinement situate within the limits of the station or cantonment for the space of two months, unless the debt be sooner paid, and his goods, if found within the limits of the station or cantonment or elsewhere at any subsequent time, shall be liable to be seized and sold in satisfaction of the debt. And if the debtor be a soldier and the debt be not liquidated by sale of his effects, (accoutrements and necessaries excepted,) an order may be issued for payment of the residue by monthly deduction from the pay issued to the debtor under the rules which follow.

Ditto when special.

XVI. And it is hereby enacted, that where the execution is to be special, the debt shall be satisfied out of the pay and allowances of the debtor, and not otherwise. And a certificate of the decree and direction or order thereon, certified under the hand of the Commanding Officer and signed by him, shall be a sufficient authority for making such stoppages. Provided always, that no more than one-half of the pay and allowances of any commissioned officer, or than one-fourth of the pay and allowances of any non-commissioned officer or soldier shall be stopped in any one month.

XVII. And it is hereby enacted, that in places beyond the frontier of the territories of the East India Company, actions of debt and other personal actions may be brought before such Military Courts as aforesaid against persons so amenable as aforesaid for any amount of demand: Provided, that such Military Courts beyond the frontier shall be composed of European Officers—and provided, that if the amount of claim shall exceed 200 Rupees an appeal shall lie to the Court of Sudder Adawlut of the nearest Presidency according to the rules in force with regard to appeals from subordinate Civil Courts.

Beyond the frontier, action may be for any amount, but appeal to lie to Sudder Court in case of claims beyond Rupees 200.

XVIII. Repealed by Act XIV of 1870.

ACT No. XII. OF 1841.

1. Repeal of Regulations.
2. No interest or penalty to be demanded on arrears of land revenue.

An Act for amending the Bengal Code in regard to sales of land for arrears of Revenue,

I. Repealed by Act XIV of 1870.

II. And it is hereby enacted, that there shall be no demand of interest or penalty upon any arrear of land revenue which shall fall due after the date specified in Section 35, of this Act.

No interest or penalty to be demanded on arrears of land revenue.

III.—XXXIV. Repealed by Act I. 1845, Sec. I.

XXXV. And it is hereby enacted, that this Act shall have effect on and after the first day of January, 1842.

ACT No. XVII. OF 1841.

1. The Sudder Courts of the Presidency of Fort William may transfer to Register the duty of preparing appealed causes for trial and of executing decrees, &c., and may authorize him to issue process.
2. Repealed.

An Act for amending the proceedings in appeals before the Courts of Sudder Dewanny and Nizamut Adawlut in the Presidency of Fort William in Bengal.

I. It is hereby enacted, that it shall be competent to either of the Courts of Sudder Dewanny and Nizamut Adawlut within the territories subject to the Presidency of Fort William in Bengal, by an order, under the signature of the Register of such Court, to transfer to such Register the duty of preparing appealed causes for trial, and of executing the decrees and orders of the said Courts, and to authorize him to issue the necessary process, and to proceed thereupon agreeably to the rules prescribed by the general Regulations of Government.

The Sudder Courts of the Presidency of Fort William may transfer to Register the duty of preparing appealed causes for trial and of executing decrees, etc., and may authorize him to issue process.

II. *Repealed by Act X. 1861 and by Act XVII. 1862.*

ACT No. XVIII. OF 1841.

1. Penalty for exporting or taking arms, ammunition, &c., from territories of East India Company without a license, &c.
2. Repealed.
3. The Presidency Governments may allow the exportation of gunpowder without license.

An Act for consolidating and amending the enactments concerning the exportation of Military stores.

Penalty for exporting or taking arms, ammunition, etc., from territories of East India Company without a license, etc.

I. It is hereby enacted that arms, ammunition and military stores (with the exception of arms in the possession of individuals for private use) shall not be exported, or otherwise taken from the territories of the East India Company, without a license from a public officer or officers for ea h Presidency, to be indicated by the Governments of the respective Presidencies, for the purpose of granting such licenses, and a full compliance with all such rules and conditions as may be prescribed for the guidance of such officer or officers in regard to such exports by the aforesaid Governments respectively. And any arms, ammunition or military stores which any person shall export, or attempt to export, or take as aforesaid contrary to this Act, shall thereby become forfeited, on the award of the officer or officers authorized as aforesaid to grant licenses, or the Collector of Customs, and every person offending in the premises contrary to this Act shall be liable, on conviction before a Magistrate, to a penalty not exceeding 500 Rupees.

II. Repealed by Act XIII. 1857, Sec. 37.

The Governments aforesaid may allow the exportation of gunpowder without license.

III. And it is hereby enacted, that it shall be lawful for any of the Governments aforesaid, to allow at any port or ports the exportation of arms, ammunition and military stores as aforesaid without any such license as aforesaid as they shall deem expedient.

ACT No. XIX. OF 1841.

1. In case of death of person, leaving property, any one claiming to succeed may apply for relief to the Judge, to obtain possession.
2. Who to apply when person entitled to succeed is a minor or absent.
3. Nature of enquiry to be made by Judge.
4. Procedure of Judge when satisfied.
5. Appointment of curators in certain cases.
6. Judge may authorize curator to take possession or allow party in possession to retain possession conditionally.
7. Security to be taken from, and remuneration to be allowed to curator.
8. Report to be demanded from Collector in case of land paying revenue.
9. Curator subject to Judge's orders regarding suits, and may give discharges for debts or rents which he is authorized to collect.
10. Pending custody by curator, Judge may order allowances to parties having an apparent right.
11. Accounts to be filed by curator.
12. Inspection of curator's accounts by interested party, who may keep a separate accountant.
13. In what case only second curator may be appointed by Judge of another district.
14. Application to Judge for a curator when to be made.
15. Act not to interfere with public settlement or legal disposition of property by deceased.
16. Court of Wards to be invested with the curatorship pendente lite, and without security in case of minors.
17. Parties aggrieved may bring regular suit.
18. Judge's decision final as to actual possession only.
19. Presidency Governments may appoint public curators. Judge to nominate such curators.
20. Repealed.

An Act for the protection of moveable and immoveable property against wrongful possession in cases of successions.

In case of death of person, leaving property, any one claiming to succeed may apply for relief to the Judge, to obtain possession.

I. Whereas much inconvenience has been experienced, where persons have died possessed of moveable and immoveable property and the same has been taken upon pretended claims of right by gift or succession; the difficulty of ascertaining the precise nature of the moveable property in such cases, the opportunities for misappropriating such property and also the profits of real property, the delays of a regular suit when vexatiously protracted, and the inability of heirs when out of possession to prosecute their rights, affording strong temptations for

the employment of force or fraud in order to obtain possession. And whereas, from the above causes, the circumstance of actual possession, when taken upon a succession, does not afford an indication of rightful title equal to that of a decision by a Judge after hearing all parties in a summary suit, though such summary suit may not be sufficient to prevent a party removed from possession thereby from instituting a regular suit. And whereas such summary suit, though it will take away many of the temptations which exist for assuming wrongful possession upon a succession, will be too tardy a remedy for obviating them all, especially as regards moveable property. And whereas it may be expedient, prior to the determination of the summary suit, to appoint a curator to take charge of property upon a succession, where there is reason to apprehend danger of misappropriation, waste or neglect, and where such appointment will, in the opinion of the authority making the same, be beneficial under all the circumstances of the case. And whereas it will be very inconvenient to interfere with successions to estates by the appointment of curators, or by summary suits, unless satisfactory grounds for such proceedings shall appear, and unless such proceedings shall be required by or on the behalf of parties giving satisfactory proof that they are likely to be materially prejudiced if left to the ordinary remedy of a regular suit:—

It is hereby enacted, that whenever a person dies leaving property, moveable or immoveable, it shall be lawful for any person claiming a right by succession thereto or to any portion thereof, to make application to the Judge of the Court of the district where any part of the property is found or situate for relief, either after actual possession has been taken by another person, or when forcible means of seizing possession are apprehended.

Who to apply when person entitled to succeed is a minor or absent.

II. And it is hereby enacted, that it shall be lawful for any agent, relative, or near friend, or for the Court of Wards in cases within their cognizance, in the event of any minor, disqualified, or absent person being entitled by succession to such property as aforesaid, to make the like application for relief.

Nature of enquiry to be made by Judge.

III. And it is hereby enacted, that the Judge to whom such application shall be made shall, in the first place enquire by the solemn declaration of the complainant, and by witnesses and documents at his discretion, whether there be strong reasons for believing that the party in possession or taking forcible means for seizing possession has no lawful title, and that the applicant, or the person on whose behalf he applies is really entitled, and is likely to be materially prejudiced if left to the ordinary remedy of a regular suit, and that the application is made *bonâ fide*.

Procedure of Judge when satisfied.

IV. And it is hereby enacted, that in case the Judge shall be satisfied of the existence of such strong ground of belief, but not otherwise, he shall cite the party complained of, and give notice of vacant or disturbed possession by publication, and after the expiration of a reasonable time shall determine summarily the right to possession (subject to regular suit as hereinafter mentioned) and shall deliver possession accordingly; Provided always, that the Judge shall have the power to appoint an officer who shall take an inventory of effects, and seal or otherwise secure the same, upon being applied to for the purpose, without delay, whether he shall have concluded the enquiry necessary for citing the party complained of or not.

Appointment of curators in certain cases.

V. And it is hereby enacted, that in case it shall further appear upon such application and examination as aforesaid, that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, and that the delay in obtaining security from the party in possession, or the insufficiency thereof is likely to expose the party out of possession to considerable risk, provided he be the lawful owner; it shall be lawful for the Judge to appoint one or more curators with the powers hereinafter next mentioned, whose authority shall continue according to the terms of his or their respective appointments, and in no case beyond the determination of the summary suit and the confirmation or delivery of possession in consequence thereof. Provided always, that, in the case of land, the Judge may delegate to the Collector or to his officer the powers of a curator, and also that every appointment of a curator in respect of any property be duly published.

Judge may authorize curator to take possession or allow party in possession to retain possession conditionally.

VI. And it is hereby enacted, that the Judge shall have power to authorize such curator, either to take possession of the property generally, or until security be given by the party in possession, or until inventories of the property shall have been made, or for any other purpose necessary for securing the property from misappropriation or waste by the party in possession. Provided always, that it shall be entirely discretionary with the Judge, whether he shall allow the party in possession to continue in such possession on giving security or not, and any continuance in possession shall be subject to such orders as the Judge may issue touching inventories, or the securing of deeds or other effects.

Security to be taken from, and remuneration to be allowed to, curator.

VII. And it is hereby enacted, that the Judge shall exact from the curator security for the faithful discharge of his trust, and for rendering satisfactory accounts of the same as hereinafter mentioned, and may authorize him to receive out of the property such remuneration as shall appear reasonable, but in no case exceeding 5 per centum on the personal property and on the annual profits of the real property. All surplus monies realized by the curator shall be paid into Court, and invested in public securities for the benefit of the persons entitled thereto upon adjudication of the summary suit. Provided always, that although security shall be required from the curator with all reasonable despatch, and, where it is practicable, shall be taken generally to answer all cases for which the person may be afterwards appointed curator, yet no delay in the taking of security shall prevent the Judge from immediately investing the curator with the powers of his office.

Report to be demanded from Collector in case of land paying revenue.

VIII. And it is hereby enacted, that, where the estate of the deceased person shall consist wholly or in part of land paying revenue to Government, in all matters regarding the propriety of citing the party in possession, of appointing a curator, and of nominating individuals to that appointment, the Judge shall demand a report from the Collector, and the Collector is hereby required to furnish the same. In cases of urgency the Judge may proceed, in the first instance, without such report, and he shall not be obliged to act in conformity thereto, but, in case of his acting otherwise than according to such report, he shall immediately forward a statement of his reasons to the Court of Sudder Dewanny Adawlut, and the Court of Sudder Dewanny Adawlut, if they shall be dissatisfied with such reasons, shall direct the Judge to proceed conformably to the report of the Collector.

Curator subject to Judge's orders regarding suits, and may give discharges for debts or rents which he is authorized to collect.

IX. And it is hereby enacted, that the curator shall be subject to all orders of the Judge regarding the institution or the defence of suits, and that all suits may be instituted or defended in the name of the curator on behalf of the estate. Provided, that an express authority shall be requisite in the sunnud of the curator's appointment for the collection of debts or rents; but such express authority shall enable the curator to give a full acquittance for any sums of money received by virtue thereof.

Pending custody by curator, Judge may order allowances to parties having an apparent right.

X. And it is hereby enacted, that pending the custody of the property by the curator, it shall be lawful for the Judge to make such allowances to parties having a *primâ facie* right thereto, as, upon a summary investigation of the rights and circumstances of the parties interested, he shall consider that necessity may require, taking at his discretion security for the repayment thereof with interest, in case the party shall, upon the adjudication of the summary suit, appear not to be entitled thereto.

Accounts to be filed by curator.

XI. And it is hereby enacted, that the curator shall file monthly accounts in abstract, and at the period of every three months, if his administration last so long, and upon giving up the possession of the property, file a detailed account of his administration to the satisfaction of the Judge.

Inspection of curator's accounts by interested party, who may keep a separate accountant..

XII. And it is hereby enacted, that the accounts of any such curator as is above described shall be open to the inspection of all parties interested; and it shall be competent for any such interested party to appoint a separate person to keep a duplicate account of all receipts and payments by such curator. And if it be found that the accounts of any such curator are in arrear, or if they shall be erroneous or incomplete, or if the curator shall not produce them whenever he shall be ordered to do so by the Judge, he shall be liable to a fine not exceeding 1,000 Rupees for every such default.

In what case only second curator may be appointed by Judge of another district.

XIII. And it is hereby enacted, that after the Judge of any district shall have appointed any curator, such appointment shall preclude the Judge of any other district within the same Presidency from appointing any other curator, provided the first appointment be in respect of the whole of the property of the deceased. But if the appointment be only in respect of a portion of the property of the deceased, this shall not preclude the appointment within the same Presidency of another curator in respect of the residue or any portion thereof; Provided always, that no Judge shall appoint a curator or entertain a summary suit in respect of property which is the subject of a summary suit previously instituted under this Act before another Judge; And provided further, that if two or more curators be appointed by different Judges for several parts of an estate, it shall be lawful for the Sudder Dewanny Adawlut to make such order as it shall think fit for the appointment of one curator of the whole property.

Application to Judge for a curator when to be made.

XIV. And it is hereby provided, that this Act shall not be put in force, unless the aforesaid application to the Judge be made within six months of the decease of the proprietor, whose property is claimed by right in succession.

XV. And it is hereby enacted, that this Act shall not be put in force to contravene any public act of settlement. Neither in cases in which the deceased proprietor shall have given legal directions for the possession of his property after his decease, in the event of minority or otherwise, in opposition to such directions ; but, in every such case, so soon as the Judge having jurisdiction over the property of a deceased person, shall be satisfied of the existence of such directions, he shall give effect thereto.

Act not to interfere with public settlement or legal disposition of property by deceased.

XVI. And it is hereby provided, that this Act shall not be put in force for the purpose of disturbing the possession of the Court of Wards of any Presidency ; and in case a minor, or other disqualified person, whose property shall be subject to the Court of Wards, shall be the party on whose behalf application is made under this Act, the Judge, if he determines to cite the party in possession, and also appoint a curator, shall invest the Court of Wards with the curatorship of the estate pending the suit, without taking such security as aforesaid, and in case the minor or other disqualified person shall, upon the adjudication of the summary suit, appear to be entitled to the property, possession shall be delivered to the Court of Wards.

Court of Wards to be invested with the curatorship pendente lite, and without security in case of minors.

XVII. And it is hereby provided, that nothing in this Act contained shall be any impediment to the bringing of a regular suit, either by the party whose application may have been rejected, before or after citing the party in possession, or by the party who may have been evicted from the possession under this Act.

Parties aggrieved may bring regular suit.

XVIII. And it is hereby enacted, that the decision of the Judge upon the summary suit under this Act shall have no other effect than that of settling the actual possession ; but that for this purpose it shall be final, not subject to any appeal or order for review.

Judge's decision final as to actual possession only.

XIX. And it is hereby enacted, that it shall be lawful for the Governments of the respective Presidencies to appoint public curators for any district or number of districts. And the Judge having jurisdiction shall nominate such public curator or curators in all cases where the choice of a curator is left discretionary with him under the preceding provisions of this Act.

Presidency Governments may appoint publice curators Judge to nominate such curators.

XX. Repealed by Act VIII. 1855.

ACT No. XXIV. OF 1841.*

1. Repealed.
2. Stat. 11, *Geo. IV. and* 1 *Will. IV. C. 46, extended to India.*
3. Repealed.
4. Repealed.
5. Act not to affect any case not governed by English Law.

An Act for the greater uniformity of the law administered by Her Majesty's Supreme Courts with that administered in England, in regard * * * * to illusory appointments * * * *.

I. Repealed by Act VIII. of 1868.

II. And it is hereby enacted, that the Statute 11, George IV. and I. William IV. Ch. 46, entitled "An Act to alter and amend the law relating to illusory appointments," * * * * shall, from the first day of January next, be extended to the territories of the East India Company, as far as it is applicable to the same.

Stat. 11, Geo. IV. and 1 Will. IV. C. 46, extended to India.

III. Repealed by Act XXVII. of 1866.

IV. Repealed by Act VIII. of 1868.

V. And it is hereby provided, that this Act shall not be construed to affect any case which would not have been governed by English Law as administered by Her Majesty's Supreme Courts previous to the passing thereof, or any proceedings at Law or in Equity commenced before the first day of January next.

Act not to affect any case not governed by English Law.

* Repealed by VIII. 1868 except so far as it relates to illusory appointments, and except section 5.

ACT No. XXVI. OF 1841.

1. Executors or administrators may bring action within twelve months after death of deceased for injury done during his life-time to his real estate, and vice versâ.

2. Repealed.

3. Actions of debt may be maintained against executor or administrator.

4. Sum may be paid in Court by defendant in personal actions, by way of Compensation, etc.

5. Repealed.

6. Ditto.

7. Court may in certain cases give damages as interest over and above the value of the goods, &c.

8. Executors or administrators may distrain for arrears of rent.

9. When distraint may be so made after determination of lease.

An Act for extending in cases governed by English Law certain provisions of the Statute 3rd and 4th William IV. Chap. 42, entitled "an Act for the further amendment of the law and the better advancement of Justice."

Executors or administrators may bring action within twelve months after death of deceased for injury done during his life-time to his real estate, and vice versâ.

I. Whereas there is no remedy provided in cases governed by English Law for injuries to the real estate of any person deceased, committed in his life-time, nor for certain wrongs done by a person deceased in his lifetime to another in respect of his property, real or personal; for remedy thereof it is hereby enacted, that an action of trespass or trespass on the case, as the case may be, may be maintained by the executors or administrators of any person deceased for any injury to the real estate of such person, committed in his lifetime, for which an action might have been maintained by such person, so as such injury shall have been committed within six calendar months before the death of such deceased person, and provided such action shall be brought within one year after the death of such person; and the damages, when recovered, shall be part of the personal estate of such person; and further that an action of tresspass or trespass on the case, as the case may be, may be maintained against the executors or administrators of any person deceased for any wrong committed by him in his lifetime to another in respect of his property, real or personal, so as such injury shall have been committed within six calendar months before such person's death, and so as such action shall be brought within six calendar months after such executors or administrators shall have taken upon themselves the administration of the estate and affects of such person; and the damages to be recovered in such action shall be payable in like order of administration as the simple contract debts of such person.

II. Repealed by Act VIII of 1868.

Actions of debt may be maintained against executor or administrator.

III. And it is hereby enacted, that an action of debt on simple contract shall be maintainable in any of Her Majesty's Supreme Courts against executor or administrator.

Sum may be paid in Court by defendant in personal actions, by way of compensation, etc.

IV. And it is hereby enacted, that it shall be lawful for the defendant in all personal actions (except actions for assault and battery, false imprisonment, libel, slander, malicious arrest or prosecution, criminal conversations or debauching of the plaintiff's daughter or servant,) by leave of any of Her Majesty's Supreme Courts where such action is pending, or a Judge of any of the said Courts, to pay into Court a sum of money by way of compensation or amends, in such manner, and under such Regulations as to the payment of costs and the form of pleading, as the said Judges or such Courts respectively shall, by any rules or orders by them to be from time to time made, order and direct.

V. Repealed by Act VIII of 1868.

VI. Repealed by Act VIII of 1868.

Court may in certain cases give damages as interest over and above the value of the goods, etc.

VII. And it is hereby enacted, that every such Court as aforesaid, on the trial of any issue, or on any inquisition of damage, may, if they shall think fit, give damages in the nature of interest, over and above the value of the goods at the time of the conversion or seizure, in all actions of trover or trespass de bonis asportatis, and over and above the money recoverable in all actions on Policies of Assurance made after the passing of this Act.

Executors or administrators may distrain for arrears of rent.

VIII. And it is hereby enacted, in cases which would be governed by English Law, that it shall be lawful for the executors or administrators of any lessor or landlord to distrain upon the lands demised for any term, or at will, for the arrearages of rent due to such lessor or landlord in his life-time, in like manner as such lessor or landlord might have done in his life-time.

When distraint may be so made after determination of lease.

IX. And it is hereby enacted, that such arrearages may be distrained for after the end or determination of such term or lease at will, in the same manner as if such term or lease had not been ended or determined; Provided, that such distress

be made within the space of six calendar months after the determination of such term or lease, and during the continuance of the possession of the tenant from whom such arrears become due : Provided also, that all and every the powers and provisions of law relating to distresses for rent shall be applicable to the distresses so made as aforesaid.

ACT No. XXVII. OF 1841.

1. Unclaimed dividends on insolvent estates, may after 6 years be ordered to be repaid to assignees and distributed by them among the creditors.
2. Advertisement first necessary. Proviso.
3. Repealed.
4. Repealed.

An Act for appropriating the unclaimed dividends on insolvent estates.

Unclaimed dividends on insolvent estates may after 6 years be orderd to be repaid to assignees and distributed by them among the creditors.

I. Whereas, pursuant to the orders of the Courts for the relief of Insolvent Debtors at the several Presidencies, divers sums on account of unclaimed dividends on insolvent estates have, from time to time, been paid over by the assignees of such insolvent estates into the hands of the Accountant-General and Sub-Treasurer of the East India Company at such several Presidencies with the privity of the Accountant-General of the said Insolvent Courts, to the credit of the persons named in the Schedules as creditors of such insolvents respectively ;—and whereas it is expedient that in the event of no claim being established to such unclaimed dividends or any part thereof, within a reasonable time, such dividends should be distributed among such of the creditors of such insolvent estates as shall have established their claims against such estates respectively ;—

It is therefore enacted, that it shall be lawful for the said Courts of Insolvent Debtors respectively, in the event of no claim being established to such dividends or any part thereof, within six years after any dividend shall have been so paid over as aforesaid, to order the same to be repaid to such assignees, to be by them distributed among such of the creditors of such insolvent estates as shall have established their claims against such estates respectively, and to order such claims to be expunged from such Schedules. Provided, that this Act shall not affect the right of any party to be paid such dividends out of any further assets, which may come to the hands of the assignees, together with any future dividends which may be declared on such insolvent estates respectively in the event of any such claim being afterwards established.

Advertisement first necessary. Proviso.

II. And it is hereby enacted, that no such unclaimed dividend shall at any time be distributed under this Act unless a statement of such unclaimed dividends be previously published in manner following : one year at least before making any such division as aforesaid, a statement shall be published three times in the English language, and also in one or more Native languages in the Official Gazettes of the respective Presidencies, which statement shall contain the names and descriptions, as contained in the Schedules, of all parties in respect of whose claims dividends are reserved, together with the amount of such claims respectively, and shall specify whether any former dividend or dividends have been paid in respect thereof, and whether any proof shall have at any time been made of the debt whereby any dividend may have accrued. Provided always, that this Act shall not authorize the distribution of any such dividend except where no person shall at any time have substantiated any claim to the debt in respect of which such dividend may have become due.

III. Repealed by Act VIII. of 1868.
IV. Repealed by Act VIII. of 1868.

ACT No. IX. OF 1842.

1. *Extends to British territories in India the State 4 and 5, Vic. c. 21, for rendering a release as effectual as a lease and release.*
2. *Recital of lease for one year shall be conclusive evidence of it.*
3. *Interpretation of "Freehold."*

An Act for extending the Statute Ch. XXI. 4th and 5th of Queen Victoria in certain cases to the territories of the East India Company.

Extends to British territories in India the State 4 and 5, Vic. c. 21, for rendering a release as effectual as a lease or release.

I. It is hereby enacted, that the Statute Ch. 21. of the 4th and 5th years of the reign of Queen Victoria, entitled "An Act for rendering a release as effectual for the conveyance of freehold estates as a lease and release by the same parties," shall be extended to the territories of the East India Company from the first day of October next; provided always, that this Act shall not be construed to affect any case which would not have been governed by the law of England before the passing of the aforesaid statute if this Act had not passed, and provided, that every deed or instrument of release taking effect under this Act shall be expressed to be made in pursuance thereof; and it shall not be necessary that it be expressed to be made in pursuance of the statute aforesaid.

An Act for rendering a release as effectual for the conveyance of freehold estates as a lease and release by the same parties.

(18th May, 1841.)

"Whereas it is expedient to lessen the expense of conveying freehold estates." Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal and Commons, in this present Parliament assembled, and by the authority of the same, that every deed or instrument of release of a freehold estate, or deed or instrument purporting or intending to be a deed or instrument of release of a freehold estate, which shall be executed on or after the 15th day of May, 1841, [and shall be expressed to be made in pursuance of this Act,] shall be as effectual for the purposes therein expressed, and shall take effect as a conveyance to uses or otherwise, and shall operate, in all respects both at Law and Equity, as if the releasing party or parties who shall have executed the same had also executed in due form a deed or instrument of bargain and sale or lease for a year for giving effect to such release, although no such deed or instrument of bargain and sale or lease for a year shall be executed; Provided that every such deed or instrument so taking effect under this Act shall be chargeable with the same amount of stamp duty as any bargain and sale or lease for a year would have been chargeable with (except progressive duty) if executed to give effect to such deed or instrument, in addition to the stamp duties which such deed or instrument, shall be chargeable with as a release or otherwise under any Act or Acts relating to stamp duties.

Recital of lease for one year shall be conclusive evidence of it.

II. "And whereas many deeds or instrument of bargain and sale or leases, for a year, to give effect to deeds or instruments of release of freehold estates heretofore executed, have been lost or mislaid," be it enacted, that where, in or by any deed or instrument of release of freehold estates executed before the 15th day of May, 1841, and deed or instrument of bargain and sale, or lease for a year for giving effect to such deed or instrument of release shall be recited, or by any mention thereof in such deed or instrument of release appear to have been made or executed, such recital or mention thereof shall be deemed and taken to be conclusive evidence of the deed or instrument of bargain and sale or lease for a year so recited or mentioned, having been made and executed; and such deed or instrument of release shall also have the like effect as if the same had been executed after the 15th day of May, 1841, whether such deed, or instrument of bargain and sale, or lease for a year shall or shall not have been lost or mislaid, or may or may not be produced: Provided always, that this Act shall not prejudice or affect any proceeding at Law or in Equity pending at the time of the passing of this Act, in which the validity of any bargain and sale or lease for a year shall be in question between the party claiming under such bargain and sale or lease for a year and the party claiming adversely thereto, and such bargain and sale or lease for a year, if the result of such proceedings shall invalidate the same, shall not be rendered valid by the Act.

III. And be it enacted, that in the construction of this Act, the word "freehold" shall have not only its usual signification, but shall extend to all lands and hereditaments for the conveyance of which, if this Act had not been passed, a bargain and sale or lease for a year, as well as a release, would have been used.

Interpretation of "Freehold."

ACT No. XII. OF 1842.

1. Person residing within Military cantonment, &c. not to recover in a Military Court of Requests, unless registered as a Military bazar-man.
2. Extends Act XI. and XXVIII. 1841, to all camp followers.

An Act for the better regulation of Military bazars, and defining the liabilities of camp followers.

I. It is hereby enacted, that no person residing within the limits of any Military cantonment and carrying on trade therein, or who shall have been a trader at any Military cantonment, shall be allowed to recover in any Military Court of Requests for the Native Troops of the East India Company, held within any such cantonment, any debt contracted in the way of trade, or for the loan of money within any such cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall at any time of contracting thereof have been registered as a Military bazar-man within any such cantonment.

Person residing within Military cantonment, etc., not to recover in a Military Court of Requests, unless registered as a Military bazar-man.

II. And it is hereby declared, that all persons serving with any part of the army and receiving public pay in any capacity, menial servants, and other camp followers of every description, shall be subject to the provisions of Act No. XI. of 1841, and No. XXVIII. of 1841, * in like manner as enlisted soldiers.

Extends Acts XI. and XXVIII. 1841, to all camp followers.

ACT No. V. OF 1843.

1. No public officer shall sell in execution of decree, &c., any person or the right to his compulsory labour.

2. No Court shall enforce any right, arising out of an alleged property in the person or services of another as a slave.

3. No person shall be dispossessed etc., from property acquired, on the ground that he was a slave.

4. No Act, which, if done to a free man, would be an offence, shall be the less so if done to an alleged slave.

An Act for declaring and amending the law regarding the condition of Slavery within the territories of the East India Company.

No public officer shall sell in execution of decree, etc., any person or the right to his compulsory labour.

I. It is hereby enacted and declared, that no public officer shall, in execution of any degree or order of Court, or for the enforcement of any demand of rent or revenue, sell or cause to be sold any person, or the right to the compulsory labour or services of any person, on the ground, that such person is in a state of slavery.

No Court shall enforce any right, arising out of an alleged property in the person or services of another as a slave.

II. And it is hereby declared and enacted, that no rights arising out of an alleged property in the person and services of another as a slave shall be enforced by any Civil or Criminal Court or Magistrate within the territories of the East India Company.

No person shall be dispossessed etc., from property acquired, on the ground that he was a slave.

III. And it is hereby declared and enacted, that no person who may have acquired property by his own industry, or by the exercise of any art, calling or profession, or by inheritance, assignment, gift or bequest, shall be dispossessed of such property or prevented from taking possession thereof, on the ground that such person from whom the property may have been derived was a slave.

No act, which, if done to a free man, would be an offence, shall be the less so if done to an alleged slave.

IV. And it is hereby enacted that any act, which would be a penal offence if done to a free man, shall be equally an offence if done to any person on the pretext of his being in a condition of slavery.

ACT No. XIV. OF 1843.*

1. Repeals certain Acts and Regulations.

2. Duties leviable upon import of Salt and Cotton and export of Misree, Kund Chenee, Goor Rab, Sheera, and Saccharine produce into or from the North Western Province.

3. Order for the collection of the above duties to be made by Local Government.

4. Manufacture of alimentary Salt without sanction prohibited—penalties.

5. Powers of Collectors of Customs and Land Revenue as regards Salt works etc.

6. Powers of seizure and confiscation as regards Sugar and other articles.

7. Penalty for evasion or contravention of Act.

8. Powers of search of Customs Officers.

9. Collector, &c., to report seizures to Commissioner of Revenue. Powers of Commissioner.

10. Customs Officers may apprehend suspected persons, but shall make them over at once to the Magistrate.

11. Penalty for groundless search and apprehension by Customs officers.

12. Charges under this Act cognisable by all Magistrates. Appeal.

13. Police and Revenue Officers to aid Customs Officers in carrying out this Act.

14. Act not to apply to Saugor and Nerbudda territories, or Ajmere.

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* This Act has been modified by Act XIX. 1854, and XXXVI. 1855, Secs. 1, 9, and XVII. 1862, Secs. 1, 2; and certain parts of it are extended to the Province of Oudh by Section 1 Act XIX of 1862.

An Act for regulating the levy of Customs Duties, and the manufacture of Salt in the North Western Provinces of the Presidency of Bengal.

Repeals certain Acts and Regulations.

I. It is hereby enacted, that Regulation XVI. 1829, Act II. 1838, and so much of Regulation IX. 1810, and of any other Regulation and Act, as affects the collection of Customs duties or the manufacture of Salt in the North Western Provinces of the Presidency of Bengal, shall be repealed from the first day of September, 1843.

Duties leviable upon import of salt and cotton and export of Misree, Kund Chenee Goor Rab, Sheera and Saccharine produce into or from the N. W. P.

II. And it is further enacted, that, from and after the day abovementioned the following and no other duties of Customs shall be leviable upon the import and export of articles into and from the North Western Provinces of the Presidency of Bengal, that is to say :—

On the import of Salt, of all descriptions, two Rupees per Maund, and a further duty of one Rupee per Maund on the transmission thereof to the Eastward of Allahabad.

On the import of Cotton, uncleaned, four annas per Maund ; cleaned, eight annas per Maund.

On the export of Misree, Kund, Chenee, and all clayed and refined Sugar, eight annas per Maund ; Goor, Rab, Sheerah, and all unclayed and unrefined Saccharine produce, three annas per Maund.

The import of Sugar into any part of the said Provinces, is and shall remain prohibited.*

Orders for the collection of the above duties to be made by Local Government.

III. And it is further enacted, that it shall be lawful for the Government of the said Provinces from time to time to make and issue such orders as may be deemed expedient for the collection of the aforesaid duties in such manner, and upon such line or lines, and at such places on or near such line or lines as may seem fit, and all such orders shall have the same force as if they formed a part of this Act from the date notified in the Gazette, wherein they shall be published.†

Manufacture of alimentary Salt without sanction prohibited.—Penalties.

IV. And it is further enacted, that from and after the first day of September, 1843, the manufacture of alimentary Salt throughout the North Western Provinces of the Presidency of Bengal without the express sanction of the Government is prohibited : and that any person engaging in the manufacture of such Salt, or preparing or causing to be prepared works for the manufacture of such Salt, without such sanction, and all Zemindars or other proprietors of land or their Agents, conniving at such illicit manufacture, shall, on conviction by the Magistrate within the limits of whose district the offence may have occurred, be punished by a fine not exceeding 500 Rupees, and on non-payment of such fine by imprisonment not exceeding six months with or without hard labor, and that all works, at which such manufacture shall have been conducted or which are designed for such manufacture, shall be destroyed, and any Salt which may be manufactured or stored thereat shall be seized and confiscated.

Powers of Collectors of Customs and land Revenue as regards Salt works etc.

V. And it is further enacted, that it shall be lawful for the Collectors of Customs and the Collectors of Land Revenue within their jurisdiction, to destroy all works for the manufacture of Salt, and to seize the Salt stored thereat, and to apprehend the persons concerned in the manufacture thereof, and make them over for trial to the Magistrate within the limits of whose district the offence may have occurred.

Powers of seizure and confiscation as regards Sugar and other articles.

VI. It is further enacted, that all Sugar imported into the said Provinces, and all articles imported or exported without payment of the duty imposed by this Act, or in contravention of the orders which may be made and issued under the provisions thereof, and all boats, carriages and conveyances, and all animals used in transporting the same, shall be liable to be seized and confiscated in the manner hereinafter mentioned.

Penalty for evasion or contravention of Act.

VII. And it is further enacted, that all persons evading or attempting to evade the payment of the duties imposed by this Act, and all persons aiding or abetting such attempts or evasions, or in any manner acting in contravention of this Act or of any order made and issued under the provisions thereof, and all Zemindars and other proprietors of land, or their agents, who shall wilfully connive at such attempts or evasions or aid such acts, shall on conviction by the Magistrate within the limits of whose district the offence may have occurred, be punished by a fine not exceeding 500 Rupees, and on non-payment thereof by imprisonment not exceeding six months with or without hard labor.

Powers of search of Customs Officers.

VIII. And it is further enacted, that it shall be lawful for all officers of the Customs Department to search any carriages and conveyances and any packages, upon reasonable grounds of suspicion that such carriages, conveyances or packages, contain any articles made subject to duty or prohibited to be imported by

* This Section has been modified by Act XXXV. 1855, and Act I. 1860.

† For extension in part of Section III and eleven following sections to Central Provinces see Act VII. 1864.

this Act, and to detain all such articles as may be liable to confiscation under the provisions thereof.

Collector, etc., to report seizures to Commissioner of Revenue. Powers of Commissioner.

IX. And it is hereby enacted, that, whenever any articles or goods shall be seized or detained under the provisions of this Act, the Collector or Deputy Collector of Land Revenue or Customs, within whose jurisdiction such seizure or detention shall occur, shall, with all practicable expedition, report the case for the determination of the Commissioner of Revenue, and it shall be lawful for such Commissioner to declare such articles or goods to be confiscated, or to impose such lesser penalty in lieu thereof as to him may seem fit.

Customs Officers may apprehend suspected persons, but shall make them over at once to the Magistrate.

X. And it is hereby enacted, that it shall be lawful for all officers in the Customs Department to apprehend any person upon reasonable grounds of suspicion that such person is liable to punishment under this Act, and to make him over for trial with all practicable expedition to the Magistrate within whose jurisdiction the offence may occur.

Penalty for groundless search and apprehension by Customs officers.

XI. Provided always, that any officer of the Customs Department, who shall without reasonable grounds of suspicion search any carriage or conveyance or any package, shall upon conviction thereof before the Magistrate within whose jurisdiction the offence may have been committed, be punished with fine not exceeding 250 Rupees, which fine shall be paid over to the party aggrieved, and on non-payment of such fine, with imprisonment not exceeding three months; and provided also, that any officer of the Customs Department who shall, under colour of this Act, apprehend any person without reasonable grounds of suspicion that such person is liable to punishment under this Act, shall, upon conviction before the Magistrate within whose jurisdiction the offence may have been committed, be punished with fine not exceeding 500 Rupees, which fine shall be paid over to the party aggrieved, and on non-payment of such fine, with imprisonment not exceeding six months.

Charges under this Act cognisable by all Magistrates. Appeal.

XII. And it is hereby enacted, that all Magistrates, or persons exercising the powers of Magistrate, shall be competent to receive and determine all charges against persons thus made over to them for trial on account of offences against this Act, and that all sentences passed in pursuance of the Act, shall be open to appeal under such Rules as may from time to time be laid down for the cognizance of appeals in ordinary cases.

Police and Revenue Officers to aid Customs Officers in carrying out this Act.

XIII. And it is hereby enacted, that all officers of Police, and all officers of the Government engaged in the Collection of the Land Revenue, are empowered and required to aid and assist the officers of the Customs Department in the execution of this Act.

Act not to apply to Saugor and Nerbudda territories, or Ajmere.

XIV. And it is further enacted, that nothing in this Act contained shall apply or be deemed to apply to the Saugor and Nerbudda Territories, or to the district of Ajmere.*

ACT No. XV. OF 1843.†

1. Local Governments may appoint uncovenanted Deputy Magistrates.
2. Declaration to be made by Deputy Magistrate.
3. In what capacities Deputy Magistrate, may be employed. His powers as a Judicial Officer. To be subordinate to the Magistrate as an Officer of Police.
4. Uncovenanted Revenue or Judicial Officer may also be Deputy Magistrate.
5. Deputy Magistrate not to be dismissed without sanction of Government.
6. No person, by reason only of religion place of birth, descent or colour, shall be disqualified for the office of Deputy Collector.

An Act for the more extensive employment of Uncovenanted Agency in the Judicial Department.

Whereas the exigencies of the Public Service require that the Police and Criminal Branch of the Judicial Department should be strengthened by the more extensive emloyment of Uncovenanted Agency.

Local Governments may appoint uncovenanted Deputy Magistrates.

I. It is hereby enacted, that it shall be competent to the Local Governments of both Divisions of the Bengal Presidency to appoint in any Zillah or District

* Repealed as regards the Saugor and Nerbudda Territoris by Act II. 1864.
† Modified by Act XVII. 1862.

one or more uncovenanted Deputy Magistrates with the powers hereinafter specified.

II. And it is hereby enacted, that every person appointed to the office of Deputy Magistrate under this Act, shall, previously to entering upon the execution of the duties of his Office, make and subscribe before the Magistrate of the District to which he may be appointed, a declaration according to Act XXI. 1837.

Declaration to be made by Deputy Magistrate.

III. And it is hereby enacted, that a Deputy Magistrate appointed under this Act shall be capable of being employed as a Judicial Officer, or as an Officer of Police, or both, at the discretion of the Local Government. As a Judicial Officer he shall exercise the powers of a Covenanted Assistant under Regulations XIII. 1797, IX. 1807, or III. 1821, or the full powers of a Magistrate according to such orders as may from time to time be issued in that respect by the Local Government, and in such cases he shall be subject to such authority in regard to Appeals from his decisions and judicial orders as is provided for the decisions and orders of a Covenanted Assistant under the above Regulations, or of a Magistrate respectively. As an Officer of Police he shall be in all respects subordinate to the Magistrate under whom he may be placed ; he shall exercise such powers as the Government, or the Magistrate with the sanction of Government, may commit to him, and shal l obey all orders that may be issued, and perform all duties that may be assigned to him by that functionary, who shall be at all times competent, subject to such orders as he may receive from the Local Government, to extend, limit or resume the powers committed to such Deputy.

In what capacities Deputy Magistrate may be employed. His powers as a Judicial Officer. To be subordinate to the Magistrate as Officer of Police.

IV. And it is hereby enacted, that nothing in this Act contained shall be held to disqualify any uncovenanted officer in the Revenue and Judicial Departments, from holding at the same time with any other office, the office of Deputy Magistrate.

Uncovenanted Revenue or Judicial Officer may also be Deputy Magistrate.

V. And it is hereby enacted, that a Deputy Magistrate appointed under this Act, shall not be dismissed from office for misconduct, without the sanction of the Local Government. Whenever there may be reason to believe that a Deputy Magistrate is disqualified by neglect, incapacity or curruption for continuance in office, a report shall be submitted by the Local Magistrate for the consideration and orders of the Local Government which shall be competent to suspend him, and order a further enquiry into his conduct, or to direct his immediate dismissal as may appear just and proper.

Deputy Magistrate not to be dismissed without sanction of Government.

VI. And it is hereby declared, that no native of the territories subject to the Government of the East India Company, nor any natural born subject of Her Majesty resident therein is, by reason only of his religion, place of birth, descent, color, or any of them, disabled from holding the office of Deputy Collector under Regulation IX. of 1833.

No person, by reason only of religion, place of birth, descent or colour, shall bedisqualified for the office of Deputy Collector.

ACT No. II. OF 1844.

1. In Appeals to the Privy Council from the Sudder Courts, the expense of two Copies of the Proceedings, and of a translation thereof to be defrayed by Appellants.

2. Deposit for such expenses to be required before admission of appeal.

An Act respecting the Expenses of preparing Copies of Proceedings in Appeals.

Whereas it is just and necessary that the expenses of preparing copies in the English Language of the proceedings in cases appealed to the Queen in Council as now required by Section 5, Regulation XVI. 1797, and Section 34, Regulation V. 1803, of the Bengal Code, Section 5, Regulation VIII. of 1818, of the Madras Code, and Clause 6, Section 100, of Regulation IV. of 1827, of the Bombay Code, should be borne by the parties prosecuting those Appeals.

In appeals to be Privy Council from the Sudder Courts, the expense of two Copies of the Proceedings, and of a translation thereof to be defrayed by Appellants.

I. It is hereby enacted, that in all cases of Appeals to the Queen in Council from judgments delivered by the Courts of Sudder Dewanny Adawlut at Fort William, Fort St. George, Bombay, and at Allahabad, the expense of preparing two copies of all the proceedings held, and judgments or orders given in the case appealed, including the whole of the evidence and documents, and of translating into the English Language such of the aforesaid proceedings, as may have been originally drawn out in the country languages, shall be defrayed by the parties prosecuting the Appeal.

Deposit for such expenses to be required before admission of appeal.

II. And it is hereby further enacted, that the Courts of Sudder Dewanny Adawlut are empowered and required to cause the deposit by the Appellant within the time allowed for furnishing security for Costs of Appeal of such a sum as shall be sufficient to cover the expense of making the two aforesaid copies, and when such deposit shall have been made, and not till then, to declare the Appeal admitted, and to give notice thereof to the Appellant and Respondent respectively.

ACT No. V. OF 1844.

1. Unauthorized Lotteries declared common nuisances.

2. Penalty for keeping place for the drawing of lottery.

3. Penalty for agreeing to pay money on a contingency relative to the drawing of any ticket, &c., in Lottery.

4. One half of fine to be applied to the use of the Informer.

And Act for the suppression of all Lotteries not authorized by Government:

Whereas great mischief has been found to result from the existence of Lotteries.

Unauthorized Lotteries declared common nuisances.

I. It is hereby enacted, that in the Territories subject to the Government of the East India Company, all Lotteries, not authorized by Government, shall, from and after the 31st day of March, 1844, be deemed, and are hereby declared common and public nuisances and against Law.

Penalty for keeping place for the drawing of lottery.

II. And it is hereby enacted, that from and after the day aforesaid, no person shall, in the said territories, publicly or privately, keep any office or place for the purpose of drawing any Lottery not authorized by Government, or shall have any such Lottery drawn, or shall knowingly suffer any such Lottery to be drawn in his or her house; and any person so offending shall for every such offence, upon conviction before a Justice of the Peace or Magistrate, be punished by fine not exceeding 5,000 Rupees.

Penalty for agreeing to pay on a contingency relative to the drawing of any ticket, &c. in Lottery.

III. And it is hereby enacted, that, from and after the day aforesaid no person shall under any pretence, device or description whatsoever agree to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, whether with or without consideration, on any event or contingency relative or applicable to the drawing of any ticket, lot, number, or figure in any such Lottery, or shall publish any proposal for any of the purposes aforesaid, and

any person offending in any of the matters mentioned in this Section shall for every such offence, upon conviction before a Justice of the Peace or Magistrate, be punished by fine not exceeding 1,000 Rupees.

IV. And it is hereby enacted, that every fine which shall be incurred under the provisions of this Act shall be applied, one half to the use of Government, and the other half to the use of the Informer or Informers.

One half of fine to be applied to the use of the Informer.

ACT No. IX. OF 1844.*

1. Repealed.

2. Repealed.

3. Judge to assign to the Principal Sudder Ameens or Sudder Ameens attached to his Court, the several Moonsiffs' divisions which shall constitute their respective jurisdictions.

An Act for authorizing the institution of Suits in the Courts of Principal Sudder Ameens and Sudder Ameens.

1. Repealed by Act X. of 1861.

II. *Repealed by Act X. of 1861.*

III. And it is hereby enacted, that whenever there shall be more than one Principal Sudder Ameen, or more than one Sudder Ameen attached to the Court of any Zillah or City Judge, and not having any special local jurisdiction, it shall be the duty of such Judge to appoint from time to time the several Moonsiffs' divisions which shall constitute the special local jurisdiction of each of such Principal Sudder Ameens and Sudder Ameens, and that each of such Principal Sudder Ameens and Sudder Ameens, shall be empowered to take cognizance of all such suits as are mentioned in Section 1, of this Act, provided the landed or other real property to which the suit may relate shall be situated, or in all other cases the cause of action shall have arisen, or the defendant at the time when the suit may be commenced shall reside as a fixed inhabitant within the limits of such local urisdiction as aforesaid.

Judge to assign to the Principal Sudder Ameens attached to his Court, if more than one, the several Moonsiffs' divisions which shall constitute their respective Jurisdictions:

ACT No. XVIII. OF 1844.†

1. Repealed.

2. Control of Jails vested in the Magistrates and Joint-Magistrates, under the instructions of the Judges and the orders of Government.

An Act for the better control and management of Jails within the Bengal Presidency.

I. Repealed by Act XIV. of 1870.

II. * * * the whole of the said control and superintendence shall be vested in the Magistrates and Joint-Magistrates, acting under the instructions of the Zillah and City Judges, and the Magistrates, Joint-Magistrates and Zillah and City Judges, shall be guided in regard to all matters relating to the Jails under their charge, the prisoners confined in them, the establishments thereunto belonging, and the places of banishment or transportation of prisoners, by such orders as they may receive from their respective Local Governments.

Control of Jails vested in the Magistrates and Joint-Magistrates, under the instructions of the Judges and the orders of Government.

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* This Act except Section 3, has been repealed by Act X. 1861.

† Repealed by Act II. of 1864 of the Bengal Council as regards Presidency of Fort William.

ACT No. XX. OF 1844.

1. Agents entrusted with goods, or documents of title thereto, shall, notwithstanding they may be known to be merely agents, be deemed the owners of the goods so far as to render valid certain contracts entered into with them upon the security thereof.

2. Pledge of goods &c., by agent in consideration of surrender or transfer to him of other goods &c., by a person having a lien thereon in respect of former advance shall be valid within the meaning of this Act to the extent of such lien.

3. Act to protect such contracts only as are made bonâ fide, and without notice of want of authority or mala fides of agent; and not pledge made for antecedent debt, or deviation from orders of owner.

4. "Document of Title," defined. Agent in what case to be deemed to have been entrusted with goods. What payment to be deemed an advance. Presumption arising from possession.

5. Act not to lessen civil responsibility of Agent for breach of duty or contract.

6. Liability of agent consigning, or contracting to assign goods of principal without authority, and for own benefit, and of Clerk &c., abetting above offence. Exception. Conviction of agent not to be used in evidence against him in at law, nor own statements under compulsory process.

7. Power of owner to redeem goods before and after sale, on payment of lien. In case of bankruptcy of agent, amount so paid may be proved as a debt upon his estate.

8. Interpretation.

9. Act not to affect pre-existing contracts.

An Act to amend the law relating to advances *bonâ fide* made to Agents intrusted with goods, extending to the territories of the East India Company, in cases governed by English Law, the provisions of the Statute 5 and 6 Victoria, c. 39, as altered by this Act.

Whereas by Act XIII. of 1840, the provisions of the Statute 4, Geo. IV. c. 83, as altered and amended by the Statute 6, Geo. IV. c. 94, were extended to the territories of the East India Company, in cases governed by English Law; and whereas by the Statute 5 and 6 Victoria, c. 39, the said Statute 6, Geo. IV. c. 94, is altered and amended; and the provisions thereof are extended.

It is hereby enacted, that the Statute 5 and 6, Victoria, c. 39, as altered by this Act, shall, from and after the passing of this Act, be extended to the territories of the East India Company; provided always that this Act, shall not be construed to affect any case which would not have been governed by the Law of England before the passing of the last mentioned Statute, if this Act had not passed, or to extend or alter the jurisdiction of any of Her Majesty's Courts of Justice.

The Statute hereby extended to the territories of the East India Company and as altered by this Act, is as follows:

5 AND 6 VICT. CHAP. XXXIX. AS ALTERED BY THIS ACT.

An Act to amend the law relating to advances *bonâ fide* made to Agents intrusted with Goods.

Agents entrusted with goods, or documents of title thereto, shall, notwithstanding they may be knon to be merely agents, be deemed the owners of the goods so far as to render valid certain contracts entered into with them upon the security thereof.

Whereas by an Act passed in the 6th Year of the Reign of His late Majesty King George the Fourth, intituled an Act to alter and amend an Act for the better protection of the property of Merchants and others who may hereafter enter into contracts or agreements in relation to Goods, Wares and Merchandize intrusted to Factors or Agents, validity is given, under certain circumstances, to contracts or agreements made with persons intrusted with, and in possession of the Documents of Title to Goods and Merchandize, and Consignees, making advances to persons abroad who are intrusted with any goods and merchandize, are entitled, under certain circumstances, to a lien thereon, but under the said Act, and the present state of the law, advances cannot safely be made upon goods or documents to persons known to have possession thereof as Agents only: And whereas by the said Act it is amongst other things further enacted, "that it shall be lawful to and for any person to contract with any Agent intrusted with any Goods, or to whom the same may be consigned, for the purchase of any such Goods, and to receive the same of and to pay for the same to such Agent, and such contract and payment shall be binding upon and good against the Owner of such goods, notwithstanding such person shall have notice that the person making such contract, or on whose behalf such contract is made, is an Agent; provided such contract or payment be made in the

usual and ordinary course of business, and that such person shall not, when such contract is entered into or payment made, have notice that such Agent is not authorized to sell the same, or to receive the said purchase money." And whereas advances on the security of goods or merchandize have become an usual and ordinary course of business, and it is expedient and necessary that reasonable and safe facilities should be afforded thereto, and that the same protection and validity should be extended to *bonâ fide* advances upon goods and merchandize as by the said recited Act is given to sales, and that Owners intrusting Agents with the possession of goods, or merchandize, or of documents of title thereto, should in all cases where such Owners, by the said recited Act or otherwise would be bound by a contract or agreement of sale be in like manner bound by any contract or agreement of pledge or lien for any advances *bonâ fide* made on the security thereof. And whereas much litigation has arisen on the construction of the said recited Act, and the same does not extend to protect Exchanges of Securities *bonâ fide* made, and so much uncertainty exists in respect thereof, that it is expedient to alter and amend the same, and to extend the provisions thereof, and to put the law on a clear and certain basis. Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same, that, from and after the passing of this Act, any Agent who shall thereafter be intrusted with the possession of Goods, or of the Documents of Title to Goods, shall be deemed and taken to be Owner of such goods and documents, so far as to give validity to any contract or agreement by way of pledge, lien, or security *bonâ fide* made by any person with such Agent so intrusted as aforesaid as well for any original Loan, Advance, or Payment made upon the security of such goods or documents, as also for any further or continuing advance in respect thereof, and such contract or agreement shall be binding upon and good against the Owner of such goods, and all other persons interested therein, notwithstanding the person claiming such pledge or lien may have had notice that the person with whom such contract or agreement is made is only an Agent.

Pledge of goods etc. by agent in consideration of surrender or transfer to him of other goods etc., by a person having a lien thereon in respect of former advance, shall be valid within the meaning of this Act to the extent of such lien.

II. And be it enacted, that, where any such contract or agreement for pledge, lien or security shall be made in consideration of the delivery or transfer to such Agent of any other Goods or Merchandize, or Document of Title or Negotiable Security, upon which the person so delivering up the same had at the time a valid and available lien and security for or in respect of a previous advance, by virtue of some contract or agreement made with such Agent, such contract and agreement, if *bonâ fide* on the part of the person with whom the same may be made, shall be deemed to be a contract made in consideration of an advace within the true intent and meaning of this Act, and shall be as valid and effectual, to all intents and purposes, and to the same extent, as if the consideration for the same had been a *bonâ fide* present advance of money. Provided always, that the lien acquired under such last mentioned contract or agreement upon the Goods or Documents deposited in exchange, shall not exceed the value at the time of the goods and merchandize which, or the Documents of Title to which, or the Negotiable Security which shall be delivered up and exchanged.

Act to protect such contracts only as are made *bona fide*, and without notice of want of authority or *mala fides* of agent; and not pledge made for antecedent debt or deviation from orders of owner.

III. Provided always, and be it enacted, that this Act and every matter and thing herein contained, shall be deemed and construed to give validity to such contracts and agreements only, and to protect only such Loans, Advances and Exchanges, as shall be made *bonâ fide*, and without notice that the Agent making such contracts or agreements as aforesaid has not authority to make the same, or is acting *mala fide* in respect thereof against the Owner of such goods and merchandize; and nothing herein contained shall be construed to extend to or protect any lien or pledge for or in respect of any antecedent debt, owing from any Agent to any person with or to whom such lien or pledge shall be given, nor to authorize any Agent intrusted as aforesaid in deviating from any express orders or authority received from the Owner; but that for the purpose and to the intent of protecting all such *bonâ fide* Loans, Advances, and Exchanges, as aforesaid (though made with notice of such Agent not being the Owner, but without any notice of the Agent's acting without authority) and to no further, or other intent or purpose, such contract or agreement as aforesaid shall be binding on the Owner and all other persons interested in such goods,

"Document of Title" defined. Agent in what case to be deemed to have been entrusted with goods. What payment to be deemed an advance. Presumption arising from possession.

IV. And be it enacted, that any Bill of Lading, India Warrant, Dock Warrant, Warehouse-keeper's Certificate, Warrant or order for the delivery of goods, or any other Document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorize, either by endorsement or by delivery, the possessor of such Document to transfer or receive goods thereby represented, shall be deemed and taken to be a Document of Title within the meaning of this Act; and any Agent intrusted as aforesaid and pos-

sessed of any such Document of Title, whether derived immediately from the Owner of such goods, or obtained by reason of such Agent's having been intrusted with the possession of the goods, or of any other Document of Title thereto, shall be deemed and taken to have been intrusted with the possession of the goods, represented by such Document of Title as aforesaid, and all contracts, pledging or giving a lien upon such Document of Title as aforesaid, shall be deemed and taken to be respectively pledges of and liens upon the goods to which the same relates, and such Agent shall be deemed to be possessed of such Goods or Documents, whether the same shall be in his actual custody, or shall be held by any other person subject to his control, or for him or on his behalf, and where any Loan or Advance shall be *bonâ fide* made to any Agent intrusted with and in possession of any such Goods or Documents of Title as aforesaid, on the faith of any contract or agreement in writing to consign, deposit, transfer, or deliver such Goods or Documents of Title as aforesaid, and such Goods or Documents of Title shall actually be received by the person making such Loan or Advance, without notice that such Agent was not Authorized to make such pledge or security, every such Loan or Advance shall be deemed and taken to be a Loan or Advance on the security of such Goods or Documents of Title within the meaning of this Act, though such Goods or Documents of Title shall not actually be received by the person making such Loan or Advance till the period subsequent thereto: and any contract or agreement, whether made direct with such Agent as aforesaid, or with any Clerk or other person on his behalf, shall be deemed a contract or agreement with such Agent; and any payment made, whether by money or bills of exchange, or other negotiable security, shall be deemed and taken to be an Advance within the meaning of this Act; and an Agent in possession as aforesaid of such Goods or Documents shall be taken, for the purposes of this Act, to have been intrusted therewith by the Owner thereof, unless the contrary can be shown in evidence.

Act not to lessen civil responsibility of agent for breach of duty or contract.

V. Provided always and be it enacted, that nothing herein contained shall lessen, vary, alter or affect the civil responsibility of an Agent for any breach of duty or contract, or non-fulfilment of his orders or authority in respect of any such contract, agreement, lien, or pledge as aforesaid.

Liability of agent consigning, or contracting to assign goods of principal without authority, and for own benefit. Exception. Of clerk, etc., abetting above offence. Conviction of agent not to be used in evidence against him in action at law, nor own statements under compulsory process.

VI. Provided always and be it enacted, that, if any Agent intrusted as aforesaid shall, contrary to or without the authority of his principal in that behalf, for his own benefit and in violation of good faith, make any consignment, deposit, transfer, or delivery of any Goods or Documents of Title so intrusted to him as aforesaid, as and by way of a pledge, lien, or security; or shall, contrary to or without such authority, for his own benefit and in violation of good faith, accept any Advance on the faith of any contract or agreement to consign, deposit, transfer, or deliver such Goods or Documents of Title as aforesaid, every such Agent shall be deemed guilty of a misdemeanor, and, being convicted thereof, shall be sentenced to transportation for any term not exceeding fourteen years, nor less than seven years, or to suffer such other punishment by fine or imprisonment, or by both, as the Court shall award; and every Clerk or other person, who shall knowingly and wilfully act and assist in making any such consignment, deposit, transfer, or delivery, or in accepting or procuring such Advance as aforesaid, shall be deemed guilty of a misdemeanor, and, being convicted thereof, shall be liable, at the discretion of the Court, to any of the punishments which the Court shall award, as hereinbefore last mentioned. Provided nevertheless, that no such Agent shall be liable to any prosecution for consigning, depositing, transferring, or delivering any such Goods or Documents of Title, in case the same shall not be made a security for or subject to the payment of any greater sum of money than the amount, which, at the time of such consignment, deposit, transfer, or delivery, was justly due and owing to such Agent from his Principal, together with the amount of any Bills of Exchange drawn by or on account of such Principal, and accepted by such Agent. Provided also, that the conviction of any such Agent, so convicted as aforesaid, shall not be received in evidence in any action at Law or suit in Equity against him, and no Agent intrusted as aforesaid shall be liable to be convicted by any evidence whatsoever in respect of any act done by him, if he shall, at any time previously to his being indicted for such offence, have disclosed such act, on oath, in consequence of any compulsory process of any Court of Law or Equity, in any action, suit, or proceeding which shall have been *bonâ fide* instituted by any party aggrieved, or if he shall have disclosed the same in any examination or deposition before any Commissioner of Bankruptcy or of any Insolvent Court.

Power of owner to redeem goods before and after sale, on payment of lien. In case of bankruptcy of agent

VII. Provided also, and be it enacted, that nothing herein contained shall prevent such Owner as aforesaid from having the right to redeem such Goods or Documents of Title, pledged as aforesaid, at any time before such Goods shall have been sold, upon re-payment of the amount of the lien thereon, or restoration of the

securities in respect of which such lien may exist, and upon payment or satisfaction to such Agent, if by him required, of any sum of money for or in respect of which such Agent would by law be entitled to retain the Goods or Documents, or any of them, by way of lien as against such Owner, or to prevent the said Owner from recovering of and from such persons with whom any such Goods or Documents may have been pledged, or who shall have any such lien thereon as aforesaid, any balance or sum of money remaining in his hands as the produce of the sale of such Goods, after deducting the amount of the lien of such person under such contract or agreement as aforesaid. Provided always, that, in case of the Bankruptcy or Insolvency of any such Agent, the Owner of the goods which shall have been so redeemed by such Owner as aforesaid shall, in respect of the sum paid by him on account of such Agent for such redemption, be held to have paid such sum for the use of such Agent before his Bankruptcy or Insolvency, or in case the goods shall not be so redeemed, the Owner shall be deemed a creditor of such Agent for the value of the goods so pledged at the time of the pledge, and shall, if he shall think fit, be entitled, in either of such cases, to prove for or set off the sum so paid, or the value of such goods, as the case may be.

amount so paid may be proved as a debt upon his estate.

VIII. And be it enacted, that in construing this Act the word "Person" shall be taken to designate a Body Corporate or Company as well as an Individual, and that words in the singular number shall, when necessary to give effect to the intention of the said Act, import also the plural, and *vice versa*, and words used in the masculine gender shall, when required, be taken to apply to a female as well as a male.

Interpretation.

IX. Repealed by Act XIV. 1870,

ACT No. VII. OF 1845.

1. The Lieutenant-Governor of the North Western Provinces may declare Act applicable to any public Canal.

2. May make rules for levy of water rent, supply of water for irrgation, and payment of tolls.

3. Penalty for contravention of rules.

4. Recovery of balances of water rent.

5. Penalties for obstruction, damage etc.

6. Penalty for offences against Act, or rules passed under it.

7. Detention and confiscation of boat etc., on non-payment of toll.

8. Officers for the collection of rents and tolls may be appointed by Lieutenant-Governor. Their powers.

An Act for regulating the levy of Water Rent, Tolls and dues on certain Canals for irrigation and navigation constructed by Government in the North Western Provinces, and for the protection of the said Canals from injury.

Whereas numerous Canals have been constructed, and are in progress of construction, at the public expense in the North-Western Provinces of the Presidency of Fort William in Bengal, for the purpose of irrigation and also fo navigation, so far as may be practicable to unite the two objects, and whereas it is requisite to regulate the levy of rents, tolls or dues, on such Canals, and to provide for their protection from injury—

The Lieutenant-Governor of the N. W. P. may declare Act applicable to any public Canal.

I. It is hereby enacted that the Lieutenant-Governor of the North-Western Provinces shall be competent, by proclamation to be made in the Government Gazette, to declare the Provisions of this Act applicable to any such Canal.

May make rules for levy of water-rent, supply of water for irrigation, and payment of tolls.

II. And it is hereby enacted, that the said Lieutenant-Governor of the North-Western Provinces shall be competent to draw out rules to regulate the levy of water rent, and the supply of water for irrigation, and the payment of tolls and dues on boats, rafts or floats, and admission to the benefits of navigation on such Canals, as may be found most suitable to the peculiar circumstances of each. The rules thus drawn out shall be published for general information in the Government Gazette.

Penalty for contravention of rules.

III. And it is hereby enacted, that any acts done by private individuals in contravention of the rules so published, shall be punishable either by temporary deprivation of the benefits of the Canal, or by the penalties hereinafter described.

Recovery of balances of water rent.

IV. And it is hereby enacted, that all balances of water rent, due for lands irrigated by the Canals, shall be levied, either by temporary deprivation of the benefits of the Canal, or by the same process as is prescribed for the recovery of balances of land revenue.

Penalties for obstruction, damage, etc.

V. And it is hereby enacted, that whoever wilfully causes any obstruction to any of the said Canals, or to any of the water courses drawn and supplied therefrom, or damages the banks of the Canal, or the works constructed for its maintenance, or wilfully defiles the water in the Canal, shall be liable to the penalties hereinafter described.

Penalty for offences against Act, or rules passed under it.

VI. And it is hereby enacted, that all persons offending against the provisions of this Act, or of rules passed under this Act, shall be punishable on conviction before the Magistrate by imprisonment without labor for a term not exceeding fourteen days, or fine to an amount not exceeding Fifty Rupees, or both; and in default of payment of such fine, by additional imprisonment for fourteen days.

Detention and confiscation of boat, etc., on non-payment of toll.

VII. And it is hereby enacted, that if the Owner of any boat, float, or raft, navigating any such Canal, shall refuse to pay the prescribed toll, it shall be lawful for the Officer charged with the levy of tolls on the Canal, to detain such boat, raft, or float, and if the toll be not paid, in the course of ten days, then it shall be lawful for the said Officer, under the direction of the Superintendent of the Canal, on the 10th day after the seizure, to sell such property, or so much thereof as may be necessary, or to declare the whole confiscated; provided that in all such cases no confiscation shall be carried into effect till the circumstances have been reported to the Commissioner of the Division, and his sanction obtained thereto.

Officers for the collection of rents and tolls may be appointed by Lieutenant-Governor. Their powers.

VIII. And it is hereby enacted, that it shall be lawful for the Lieutenant-Governor of the North-Wastern Provinces to appoint Officers for the collection of the rent, toll and dues, hereinbefore mentioned, and to confer on such Officers the powers of Deputy Collectors for the levy of such rent, and of Joint-Magistrates for the enforcement of such penalties as have been hereinbefore specified.

ACT No. XV. OF 1845.*

1—5. *Repealed.*

6, 7. Extend the period within which Native Officer, &c., may lodge complaint under Act IV. 1840.

An Act for declaring and enacting the privileges of Native Officers and Soldiers of the Armies of the three Presidencies in respect of Judicial and Revenue proceedings.

I—V. *Repealed by Act X. 1861.*

VI. Repealed by Act XIV. of 1870.

VII. And it is hereby enacted, that no such order as is mentioned in the above recited Section of Act IV. of 1840 shall be passed, when the party complaining of having been dispossessed is a Native Officer or Soldier, unless such party prefer his claim within such period as may be considered by the Magistrate reasonable, with reference to the distance of the party, and the difficulty of communication. †

Extend the period within which Native Officer, &c., may lodge complaints under Act IV. 1840.

* Section 4.

† Act IV. of 1840 was repealed by Act XVII. of 1862.

ACT No. VIII. OF 1846.

1. Government Jummah of the Villages included on 1st May, 1846 within the districts noted below to be considered fixed till the dates specified for each.

2. Mouzahs standing transferred on 1st May, 1846, to permanently settled districts, to be held for ever on the highest Jummah settled prior to that date.

3. Persons holding lands on special grants or long Leases to continue to hold the same according to the terms.

4. Malgoozar may relinquish his lease, on giving notice within two years of its expiry.

5. In absence of notice, existing Jummah to hold good till revision of Settlement.

6. Government right to Revenue from resumed rent-free Land—Towfeer &c, not barred.

An Act for determining the duration of the existing Settlement of the North Western Provinces.

Whereas the settlement of the several Districts of the North Western Provinces has been made for different periods ; and whereas, from several causes, the duration of the settlement as stated in the engagements of the Malgoozars, does not always agree with that sanctioned by the Government ; and whereas it is necessary to avoid the confusion and litigation which may hence arise, and also to provide for the continuance of the existing settlements till a fresh revision shall take place ;

Government Jummah of the Villages included on 1st May, 1846, within the districts noted to be considered fixed till the dates specified for each.

I. It is therefore hereby enacted, that the Jummah of all villages included on 1st May, 1846, within the limits of the Districts in the said Provinces noted below, shall be considered fixed till the date inserted opposite to each District, so far as regards the claim of the Government to any increase upon the Jummah determined at the time of settlement, or as it stands subsequently altered by Government prior to 1st May, 1846.

Paneeput, July 1st, 1872, one thousand eight hundred and seventy-two.
Delhi, July 1st, 1870, one thousand eight hundred and seventy.
Rohtuck, July 1st, 1870, one thousand eight hundred and seventy.
Goorgaon, July 1st, 1872, one thousand eight hundred and seventy-two.
Moradabad, July 1st, 1872, one thousand eight hundred and seventy-two.
Muttra, July 1st, 1871, one thousand eight hundred and seventy-one.
Agra, July 1st, one thousand eight hundred and seventy-two.
Mynpoory, July 1st, 1870, one thousand eight hundred and seventy.
Etawah, July, 1st, 1871, one thousand eight hundred and seventy-one.
Cawnpore, July 1st, 1870, one thousand eight hundred and seventy.
Futtehpore, July 1st, 1870, one thousand eight hundred and seventy.
Humeerpore, July 1st, 1872, one thousand eight hundred and seventy-two.
Banda, July 1st, 1874, one thousand eight hundred and seventy-four.

Mouzahs standing transferred on 1st May, 1846, to permanently settled districts, to be held for ever on the highest Jummah settled prior to that date.

II. And it is hereby enacted, that in the said Provinces, Mouzahs, standing transferred on the above date of May 1st, 1846, from Districts or Pergunnahs not permanently settled, to Districts or Pergunnahs permanently settled, shall not be held liable to any increased demand on the part of the Government, but shall be held for ever on the highest Jummah determined at the time of settlement, or as it stands, subsequently altered by Government prior to 1st May, 1846.

Persons holding lands on special grants or long Leases to continue to hold the same according to the terms.

III. Provided always and it is hereby declared, that persons holding land on special grants or on leases for longer periods than those specified in Section I, shall continue to hold them according to the terms of their several grants or leases.

Malgoozar may relinquish his lease, on giving notice within two years of its expiry.

IV. And it is hereby enacted, that, whenever a Malgoozar may be desirous to relinquish his lease on the expiration of the term of his engagement, he shall be at liberty to do so, provided that he give notice thereof in open Court and in writing to the Collector and to the Commissioner of the Division within one year before the 1st of July immediately preceding the expiration of the engagement.

V. And it is hereby enacted, that, when such notice shall not have been given as aforesaid, the Malgoozar shall be held bound to pay the Jummah determined at the time of settlement, or as it stands subsequently altered by Government prior to the 1st of May, 1846, for the period which may be applicable to his case according to Section 1, and subsequently from year to year till the settlement be revised, or in perpetuity according to Section 2.

In absence of notice, existing Jummah to hold good till revision of Settlement.

VI. Provided, however, and it is hereby declared, that nothing in this Act shall bar the right of the Government to demand revenue from any resumed rent-free land, alluvial Towfeer, or other land which was not assessed at the time of settlement.

Government right to Revenue from resumed rent-free Land —Towfeer &c. not barred.

ACT No. I. OF 1847.

1. Empowers Revenue Officers to fix boundaries of fields and estates, and require marks to be formed by owners or occupants.
2. Notice to set up or repair marks to be served on owners or occupants.
3. In case of their default, Revenue Officers may cause marks to be erected, &c., at their expense.
4. Penalty for wilful erasure of boundary marks.
5. Disputed boundaries how to be fixed.
6. Act IV. of 1840 not to apply.

An Act for the establishment and maintenance of Boundary Marks in the North Western Provinces of Bengal.

Whereas it is desirable, with a view to the better definition and security of landed property, the prevention of encroachments and disputes and the identification of lands assessed to, or exempted from, the Public Revenue, that provision should be made for the establishment and maintenance of permanent marks to distinguish the boundaries of Fields or Estates :

Empowers Revenue Officers to fix boundaries of fields and estates, and require marks to be formed by owners or occupants.

I. It is hereby enacted, that it shall be lawful within the territories subject to the Government of the North Western Provinces of Bengal, for Collectors of Land Revenue, or persons exercising the powers of Collector, or such Revenue Officers as the Lieutenant-Governor may entrust with that authority, to fix the boundaries of Fields or Estates, and to require that marks be formed and maintained by the owners or occupants on the boundaries, of such materials and in such number and manner as may appear to such Officers sufficient for distinguishing the limits of those Fields or Estates, whenever they may be of opinion that such demarcation is necessary for the prevention or adjustment of disputes.

Notice to set up or repair marks to be served on owners or occupants.

II. And it is hereby enacted, that notices shall be served on the persons owning or occupying the conterminous Fields or Estates, requiring them to form or repair the said Boundary Marks, within ten days from the date of the notice, and in the event of these persons not being found in the Village, that the said requisition shall be posted at the Village Chowree or Chopal, or other conspicuous place in the Village, which shall be held to be a sufficient service, notwithstanding it may afterwards appear that the owners or occupants were not correctly named or designated in the notice.

In case of their default, Revenue Officers may cause marks to be erected, etc. at their expense.

III. And it is hereby enacted, that in default of the owners or occupants of the Fields or Estates complying with the requisition, the said Revenue Officers shall give directions for the erection and repair of such Boundary Marks, the cost of which shall be equitably apportioned on the Fields or Estates which they serve to distinguish, and shall be charged to the persons possessing a right of ownership or occupancy in such Field or Estates, and shall be realized in the same manner as arrears of land revenue.

Penalty for wilful erasure of boundary marks.

IV. And it is hereby enacted, that any person who may be convicted of wilfully erasing, removing or injuring such Boundary Marks, shall be liable to a fine not exceeding Fifty Rupees for each mark so erased, removed or injured ; one half of which fine may be awarded on conviction to the informer, and the other half shall be chargeable with the cost of restoring the mark ; whenever it may not be possible to detect the person who erased, removed or injured the Boundary Marks as aforesaid, the marks shall be re-erected or repaired at the charge of one or both parties, as the Collector or other Officer authorized to make the demarcation may consider just and equitable.

Disputed boundaries how to be fixed.

V. And it is hereby enacted, that disputed boundaries shall be fixed by Revenue Officers under the powers and in the manner prescribed in Regulations VII. 1822 and IX. of 1833, and shall be similarly open to appeal.

Act IV. of 1840 not to apply.

VI. And it is hereby enacted, that Magistrates are prohibited from taking cognizance, *under Act IV. of 1840,** of boundary disputes of the nature for which provision is here made ; but whenever they have reason to apprehend any breach of the peace in consequence of a disputed boundary, they shall certify the circumstances to the Collector of Land Revenue, who shall be bound immediately to mark off the boundary in the mode here indicated, and to uphold the possession of the parties according to the demarcation.

* The words in Italics have been repealed by Act XIV. of 1870.

ACT No. VII. OF 1847.*

1. Commissioners for the recovery of small debts to appoint four or more Bailiffs and Appraisers, and fix their remuneration.

2. Distress warrant may be issued on affidavit made by person claiming arrears of rent not exceeding Rs. 100, of premises of Calcutta

3. Proceedings of executing Officer. Remedy of person distrained upon.

4. When goods may be appraised and sold.

5. What costs may alone be demanded for such distress.

6. Distress for arrears of rent not exceeding Rs. 100, not to be made otherwise than under this Act.

7. Act in what cases not to apply.

An Act to regulate Distresses for Small Rents in Calcutta.

Commissioners for the recovery of small debts to appoint four or more Bailiffs and Appraisers, and fix their remuneration.

I. It is hereby enacted, that it shall be lawful for the Commissioners of the Court of Commissioners for the recovery of Small Debts in and for the Settlement of Fort William in Bengal to appoint four or more persons to be Bailiffs and Appraisers for the purposes of this Act, and to fix such remuneration for the Services of the said officers as shall appear to the said Commissioners expedient, and that such persons shall be duly sworn before the said Commissioners, and shall also give security, to be approved by the said Commissioners, faithfully to discharge the duties of their office, and that the said Commissioners shall have power to suspend or remove such persons so appointed; Provided, that it shall be lawful for the said Commissioners to appoint the Bailiffs who may be attached from time to time to the said Court to the office of Distraining Bailiffs and Appraisers for the purposes of this Act, and to award to the said officers such remuneration, in addition to their respective salaries drawn from the said Court, as to the said Commissioners shall appear expedient.

Distress warrant may be issued on affidavit made by person claiming arrears of rent not exceeding Rs. 100, of premises in Calcutta.

II. And it is hereby enacted, that it shall be lawful for any Commissioner of the said Court, upon the Affidavit in the Form contained in the Schedule to this Act annexed (marked D.) of any party claiming to be entitled to arrears of rent of any House or Premises situate in Calcutta, not exceeding the amount of 100 Rupees, or in case of absence of such party from Calcutta, or in case of respectable females who do not appear in public, upon the Affidavit of the constituted Attorney of such party, stating the amount of such arrears, and for what time and at what rate the same became due, to issue a Warrant under his hand and seal in the form contained in the Schedule to this Act annexed (marked A.) addressed to any one of such officers, directing him to levy the amount of such rent, together with the costs of the said distress, in the manner therein mentioned; Provided, that it shall be lawful for any of the said Commissioners upon personal examination of the party applying for such Warrant, to grant or withhold the same, at the discretion of the said Commissioner.

Proceedings of executing Officer. Remedy of person distrained upon.

III. And it is hereby enacted, that by virtue of such Warrant it shall be lawful for such officer to seize the whole or such part of the Goods and Chattels upon the said premises as shall be sufficient to cover the amount of the said rent, together with the costs of the said distress, and that he shall thereupon make an Inventory of the Goods and Chattels so seized, and shall give a Notice in writing in the Form in the Schedule to this Act annexed (marked B.) to the party from whom such rent is claimed to be due, or to any other person upon behalf of such party upon the said premises, that the said Goods and Chattels will be appraised and sold in manner therein mentioned. And that the said Officer shall file in the said Court true copies of the said Inventory and Notice; Provided, that it shall be lawful for the party from whom such rent is claimed to be due, at any time within five days from such seizure, to apply to any Commissioner of the said Court to discharge or suspend such Warrant, and it shall be lawful for such Commissioner to discharge or suspend such Warrant accordingly, with or without costs; provided always, that it shall be lawful for any of the said Commissioners in his discretion to give reasonable time to such party to pay the said rent.

When goods may be appraised and sold.

IV. And it is hereby enacted, that in default of such application, it shall be lawful for any two of such officers, at the expiration of five days from such seizure, to appraise the Goods and Chattels so seized, and to give Notice in writing in the Form in the Schedule to this Act annexed (marked E.) of the sale thereof, at such time and place as they shall direct after an interval of not less than two days; and that they shall file in the said Court a true copy of the said Notice; and that the same shall be sold accordingly, and that the said Officers shall forthwith, after.

* See Act IX. 1850, Sec. 1, Act XXIII. 1850, Sec. 3, Act XII. 1851, Sec. 7, and Act XXVI. 1864.

realization of the produce of the said sale, pay over the amount thereof to the Chief Clerk of the said Court, and the amount of such produce shall be applied in satisfaction of the sum claimed to be due, together with the costs of the said distress, and that the surplus, if any, shall be returned to the party from whom the said rent was claimed to be due; Provided, that it shall be lawful for such party to direct that such sale shall take place in any other manner, such party giving security for any extra costs attending such mode of sale.

What costs may alone be demanded for such distress.

V. And it is hereby enacted, that no costs shall be taken or demanded for such distress, except those contained in the Schedule to this Act annexed (marked C.,) and that it shall be lawful for the said Commissioners to apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said Bailiffs and Appraisers as shall appear to the said Commissioners expedient, and that the Chief Clerk of the said Court shall keep a Book, in which all sums received as costs upon distresses made under the provisions of this Act, and all sums paid as remuneration to the said Bailiffs and Appraisers, and all contingent charges incurred in respect of such distresses, shall be duly entered, and that the Chief Clerk of the said Court shall also enter in the said book all sums realized by sale of the Goods and Chattels distrained and paid over to the Landlords, under the provisions of this Act.

Distress for arrears of rent not exceeding Rs. 100, not to be made otherwise than under this Act.

VI. And it is hereby enacted, that, after the passing of this Act, *no distress shall be levied for arrears of rent amounting to Rupees 100, or less, except under the provisions of this Act,** and that any person, except such officer as appointed, levying or attempting to levy any such distress, shall be guilty of a misdemeanor, and shall be liable to be punished by fine and imprisonment for the same, in addition to any other liability he may have incurred by such trespass.

Act in what cases not to apply.

VII. And it is hereby enacted, that *this Act shall not extend to any arrears of rent exceeding 100 Rupees,** nor in respect of any House or Premises situate out of Calcutta, nor to any rent due to Government nor to any seizure except on the premises in respect of which such rent is claimed.

A.

In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.

Form of Warrant.

I hereby direct you to distrain the Goods and Chattels on the Premises of A B., situate in———in the Town of Calcutta, for the sum of——Rs., being the amount of———months' rent due to C. D., for the same, on the———day of ———last, *according to the provisions of the Act No. VII. of* 1847'* Dated 1st day of May.

(Signed and Sealed)

To E. F., *Sworn Bailiff and Appraiser.*

B.

In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.

Form of Inventory and Notice.

(State particulars of Goods seized.)

Take Notice that I have this day seized the Goods and Chattels contained in the above Inventory for the sum of———Rs., being the amount of——months' rent due to C. D., at———last, and that unless you pay the amount thereof, together with the Costs of this Distress, within five days from the date thereof, or obtain an order from one of the Commissioners of the Court of Requests to the contrary, the same will be appraised and sold, *pursuant to the provisions of this Act No. VII. of 1847.*†

(Signed) E. F.,
Sworn Bailiff and Appraiser

To A. B.

* See Act IX. 1850, Sections 89, 90. extending provisions of Act to arrears not exceeding Rupees 500

† See Act IX. 1850, Sections 89, 90

C.

In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.

Scale of Fees to be levied in Distraints for House Rent.

Sums sued for.	*Affidavit & Warrant to Distrain.*		*Order to Sell.*		*Commission.*		*Total.*		*Remarks.*
	Rs.	As.	Rs.	As.	Rs.	As.	Rs.	As.	
1 and under 5 Rs. ...	0	4	0	8	0	8	1	4	
5 and under 10 Rs. ...	0	8	0	8	1	0	2	0	
10 and under 15 Rs. ...	0	8	0	8	1	8	2	8	
15 and under 20 Rs. ...	0	8	1	0	2	0	3	8	
20 and under 25 Rs. ...	0	12	1	0	2	8	4	4	
25 and under 30 Rs. ...	1	0	1	0	3	0	5	0	
30 and under 35 Rs. ...	1	0	1	0	3	8	5	8	
35 and under 40 Rs. ...	1	0	1	8	4	0	6	8	
40 and under 45 Rs. ...	1	4	2	0	4	8	7	12	
45 and under 50 Rs. ...	1	8	2	0	5	0	8	8	
50 and under 60 Rs. ...	2	0	2	0	6	0	10	0	
60 and under 80 Rs. ...	2	8	2	8	6	8	11	8	
80 to 100 Rs. ...	3	0	3	0	7	0	13	0	

The above scale is intended to include all expenses, except in suits where the Tenant disputes the Landlord's claim, and Witnesses have to be subpœnaed, in which case, each Subpœna for sums under Rs. 40, must be paid for at 4 Annas each, and 12 Annas above that amount—and also where Peons were kept in charge of property distrained, 4 Annas per day must be paid per man.

D.

In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.

A. B. —— (Plaintiff.)

versus

C. D. —— (Defendant.)

A. B., Inhabitant of ————, in the Town of Calcutta,————maketh oath and saith, that C. D. ————who is also an Inhabitant of the Town of Calcutta, is justly indebted to ———— in the sum of Company's Rupees ———— for arrears of rent of the House and Premises No. ——— situated at ————, in the Town of Calcutta, due for ——— month, to wit from ——— to ————, at the rate of Co.'s Rs. ——— per mensem. Sworn before me, the — —day of ——— 184——

Commissioner.

E.

In the Court of Commissioners for the Recovery of Small Debts in and for the Settlement of Fort William in Bengal.

Take Notice that we have appraised the Goods and Chattels seized on the ————, *under the provisions of this Act No. VII. of 1847*, of which a Notice and Inventory had been duly served upon you under date the ———, and that the said Goods and Chattels will be sold on the ——— at ——— pursuant to the provisions of the said Act.

(Signed) E. F.,
G. H.,
Sworn Bailiffs and Appraisers.

To A. B.

ACT No. IX. OF 1847.*

1. Assessment of new alluvial lands in future to be conducted under this Act.
2. Definition of "province of Orissa."
3. New surveys and maps may be ordered every ten years.
4. Approval of survey of certain specified districts to be deemed to date from the dates specified, and of other districts when specified in Government Gazette.
5. Deduction from Sudder Jumma how to be made, in case of diluvion from a rent-paying estate. Deduction to be reported.
6. In case of accretion, the increments to be assesssd and assessment reported.
7. Repealed.
8. Repealed.
9. No suit to lie against Government or its Officers for acts done in good faith under this Act.

An Act regarding the Assessment of Lands gained from the Sea or from Rivers by alluvion or dereliction within the Provinces of Bengal, Behar and Orissa.

Assessment of new alluvial lands in future to be conducted under this Act.

It is hereby enacted, that such parts of the Regulations of the Bengal Code as establish tribunals and prescribe rules of procedure for investigations regarding the liability to assessment of lands gained from the sea or from rivers, by alluvion or dereliction, or regarding the right of Government to the ownership thereof, shall from the date of the passing of this Act, cease to have effect within the provinces of Bengal, Behar and Orissa ; and that all such investigations, pending before the Collectors and Deputy Collectors in the said Provinces at the said date, shall forthwith be discontinued ; and that no measures shall hereafter be taken for the assessment of such lands, or for the assertion of the right of Government to the ownership thereof, except under the provisions of this Act.

Definition of "Province of Orissa."

II. And it is hereby enacted, that the expression "Province of Orissa" in this Act shall be taken to mean only so much of the Province of Orissa as is subject to the Government of Bengal.

New surveys and maps may be ordered every ten years.

III. And it is hereby enacted, that within the said Provinces, it shall be lawful for the Government of Bengal, in all districts or parts of districts, of which a revenue survey may have been or may hereafter be completed and approved by Government, to direct from time to time, whenever ten years from the approval of any such survey shall have expired, a new survey of lands on the banks of rivers and on the shores of the sea, in order to ascertain the changes that may have taken place since the date of the last previous survey, and to cause new maps to be made according to such new survey.

Approval of survey of certain specified districts to be deemed to date from the dates specified, and of other districts when specified in Government Gazette.

IV. And it is hereby enacted, that the approval of the revenue surveys of the following districts and parts of districts shall be deemed to have taken place on the undermentioned days, viz.

Of the district of Chittagong on the 6th September, 1842.

Of the district of Behar on the 9th November, 1844.

Of the district of Patna on the 22nd June, 1844.

Of the district of Shahabad on the 28th November, 1846.

Of the district of Sarun on the 18th February, 1847.

Of Pergunnah Furkyah, in the district of Monghyr, on the 19th September, 1839.

Of the Nothern division of the Province of Cuttack on the 24th October 1842.

Of the central division of the Province of Cuttack on the 22nd February, 1843.

Of the Southern division of the Province of Cuttack on the 19th October, 1842.

Of the district of Midnapoor, except Hidgellee and Tumlook, on the 12th September, 1845.

Of Hidgellee and Tumlook, in the district of Midnapoor, on the 5th October, 1842.

Of the district of Cachar on th 5th February, 1844.

Of Jynteeah and the Pergunnahs of Chapghat, Echamuttee, Ittisamnuggur and Bhurrun, in the district of Sylhet, on the 5th February, 1844.

Of the district of Gwalparah on the 10the December, 1842.

Of the district of Luckimpore on the 24th November, 1845.

Of the district of Seebpore on the 8th May, 1843.

And that the approval of the revenue surveys of districts or parts of districts which may be hereafter surveyed shall be deemed to have taken place, on such day as may be specified as the day of such approval in the Calcutta Government Gazette.

* See Act IV. 1868, of the Bengal Council.

V. And it is hereby enacted, that, whenever on inspection of any such new map, it shall appear to the Local Revenue Authorities that land has been washed away from or lost to any Estate paying revenue directly to Government, they shall, without loss of time, make a deduction from the Sudder Jumma of the said Estate equal to so much of the whole Sudder Jumma of the Estate as bears to the whole the same proportion as the Mofussil Jumma of the land lost bears to the Mofussil Jumma of the, whole Estate ; but if the Mofussil Jumma of the whole Estate or of the land lost cannot be ascertained to the satisfaction of the Local Revenue Authorities, then the said Local Revenue Authorities shall make a deduction from the Sudder Jumma of the Estate equal to so much of the whole Sudder Jumma of the Estate as bears to the whole the same proportion as the land lost bears to the whole Estate. And this deduction, with the reasons thereof, shall be forthwith reported by the Local Revenue Authorities for the information and orders of the Sud ler Board of Revenue, whose orders thereupon shall be final.

Deduction from Sudder Jumma how to be made, in case of diluvion from a rent-paying estate. Deduction to be reported.

VI. And it is hereby enacted, that whenever, on inspection of any such new map, it shall appear to the Local Revenue Authorities that land has been added to any Estate paying revenue directly to Government, they shall without delay assess the same with a revenue payable to Government according to the rules in force for assessing alluvial increments, and shall report their proceedings forthwith to the Sudder Board of Revenue, whose orders thereupon shall be final.

In case of accretion, the increments to be assessed and assessment reported.

VII. Repealed by Act IV. of 1868 of the Bengal Council.

VIII. Repealed by Act XIV. of 1870.

IX. And it is hereby enacted, that except as regards the proprietary right to islands, no suit or action in any Court of Justice shall lie against the Government, or any of its Officers, on account of any thing done in good faith in the exercise of the powers conferred by this Act.

No suit to lie against Government or its Officers for acts done in good faith under this Act.

ACT No. XII. OF 1847.

Reg. XXIII. 1814, Sec. 9, Cl. 3, repealed.

An Act for repealing the Law which authorizes the imposition of fines on Moonsiffs and Sudder Ameens.

Whereas it was enacted by Clause 3, Section 9, Regulation XXIII. of 1814, of the Bengal Code, that in cases of misconduct and neglect of duty which might not be of a nature to require the suspension or dismissal of a Moonsiff from his office, the Judge should be authorized to impose on the Moonsiff a fine not exceeding Twenty Rupees in amount, and that the order of the Judge in such case should be final:

Reg. XXXIII. 1814, Sec. 9, Cl. 3, repealed.

And whereas, by Section 67 of the said Regulation, the provision above recited, was declared amongst other things to be applicable to the office of Sudder Ameen, as well as to that of Moonsiffs :

And whereas the provision above recived, is no longer adapted to Moonsiffs and Sudder Ameens, in the more elevated Judicial position which they now occupy :

It is therefore hereby enacted, that Clause 3, Section 9, Regulation XXIII. of 1814, and Section 67 of the said Regulation, so far as it declares the said Clause to be applicable to Sudder Ameens, are repealed.

ACT No. XX. OF 1847.

Preamble.

1. Copyright in books published in India after 28th August, 1833, to endure for forty-two years; or for seven years after death of author, if such period be a longer one. Copyright to belong to the proprietor of the author's MS.

2. On complaint that book is likely to be withheld from the public by the proprietor after the author's death, G. G. in C., may grant a License for its publication.

3. Register of Copyrights, etc., to be kept in the office of the Secretary to the Government of India, and to be open for inspection.

4. Repealed.

5. Entry of particulars in Register by Proprietor of Copyright, and of assignment of interest by him. Effect of assignment so entered.

6. Remedy of party aggrieved by entry in Register.

7. Liability for breach of Copyright.

8. What particulars to be specified in defence of action under this Act in Supreme Court.

9. Ditto in Local Court.

10. Right of publisher of periodical, etc.

11. Benefits of registration to extend to proprietor of periodical, etc.

12. Power of Registered proprietor of Copyright to sue for damages for detention of unlawfully printed Copies of registered books.

13. Form of action in Supreme and local Courts.

14. Power to sue under this Act confined to registered Copyright.

15. Defendant in Supreme Court may plead the general issue, and recover full costs.

16. Civil or Criminal proceedings for breach of this Act to be taken within twelve months after such breach.

17. Repealed.

An Act for the encouragement of learning in the territories subject to the Government of the East India Company, by defining and providing for the enforcement of the right called Copyright therein.

Preamble.

Whereas doubts may exist whether the right called Copyright can be enforced by the Common Law of England in those parts of the territories subject to the Government of the East India Company into which the Common Law of England has been introduced:

And whereas doubts may exist whether the said right can be enforced by virtue of the principles of equity and good conscience in the other parts of the territories subject to the Government of the East India Company:

And whereas, for the encouragement of learning, it is desirable that the existence of the said right should be placed beyond doubt, and that the said right should be made capable of easy enforcement in every part of the said territories:

And whereas it is doubted whether the Act of Parliament 5 and 6, Victoria c. 45, entitled "*An Act to amend the Law of Copyright*," although such Act extends to every part of the British Dominions, has made appropriate and sufficient provisions for the enforcement, in every part of the said territories subject to the government of the East India Company, of the said right by proprietors thereof: and whether the said Act of Parliament has made provision for the enforcement of the said right by or against any person not being subject to the jurisdiction of the Courts established by Her Majesty's Charter:

Copyright in book published in India after 28th August 1833, to endure for forty-two years; or for seven years after death of author, if such period be a longer one. Copyright to belong to the proprietor of the author's MS.

I. It is therefore hereby enacted, that the Copyright in every book published in the life-time of its author within the said territories, after the passing of the Act of Parliament 3 and 4, Wm. c. 85, entitled "*An Act for effecting an arrangement with the East India Company, and for the better government of His Majesty's Indian Territories till the 30th day of April*, 1854," shall endure for the natural life of such author, and for the further term of seven years, commencing at the time of his death, and shall be the property of such author and his assigns: Provided always, that, if the said term of seven years shall expire before the end of forty-two years for the publication of such book, the Copyright shall in that case endure for such period of forty-two years; and that the Copyright in every book published after the death of its author, and after the passing of the Act of Parliament last aforesaid, shall endure form the term of forty-two years from the first publication thereof, and shall be the property of the proprietor of the author's manuscript, from which such book shall be first published, and his assigns.

G. G. in C., on complaint that book may be withheld from the public by the proprietor after the author's death, may grant a License for its publication.

II. And whereas it is expedient to provide against the suppression of books of importance to the public: It is enacted, that it shall be lawful for the Governor-General in Council, on complaint made to them that the proprietor of the Copyright in any book published after the passing of this Act within the said territories, has, after the death of its author, refused to republish, or to allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a license to such complainant to publish such book in such manner and subject to such conditons as they may think fit, and it shall be lawful for such complainant to publish such book according to such license.

III. And it is hereby enacted, that a Book of Registry wherein may be registered, as hereinafter enacted, the proprietorship in the Copyright of books and assignments thereof, and licenses affecting such Copyright, shall be kept in the office of the Secretary to the Government of India for the Home Department, and shall at all convenient times be opened to the inspection of any person on payment of Eight Annas for every entry which shall be searched for or inspected in the said book, and that such Officer shall, whenever thereunto reasonably required, give a copy of any entry in such book, certified under his hand, to any person requiring the same, on payment to him of the sum of Two Rupees, and such copies so certified shall be received in evidence in all Courts and in all summary proceedings, and shall be *primâ facie* proof of the proprietorship or assignment of Copyright or license as therein expressed, but subject to be rebutted by other evidence.

Registy of Copyrights, etc., to be kept in the office of the Secretary to the Government of India, and to be open for inspection.

IV. Repealed by Act XVII. 1862.

V. And it is enacted, that, after the passing of this Act, it shall be lawful for the proprietor of Copyright in any book published after the passing of the said Act of Parliament 3 and 4, Wm. 4, c. 85, to make entry in the Registry Book of the title of such book, the time of the first publication, and the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the Copyright of the said book, or of any portion of such Copyright, in the form in that behalf given in the Schedule to this Act annexed, upon payment of the sum of Two Rupees to the said Secretary, and that it shall be lawful for every such registered proprietor to assign his interest, or any portion of his interest therein, by making entry in the said Book of Registry of such assignment, and of the name and place of abode of the Assignee thereof, in the form given in that behalf in the said Schedule, on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever, without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by Deed.

Entry of particulars in Register by Proprietor of Copyright and of assignment of interest by him. Effect of assignment so entered.

VI. And it is enacted, that, if any person shall deem himself aggrieved by any entry made under colour of this Act in the said Book of Registry, it shall be lawful for such person to apply by motion to the Supreme Court of Calcutta, or, if the Court shall not be then sitting, to any Judge of such Court sitting in Chambers, for an order that such entry may be expunged or varied, and that upon any such application to the said Court, or to a Judge as aforesaid, such Court or Judge shall make such order for expunging, varying, or confirming such entry, either with or without costs, as to such Court or Judge shall seem just, and the said Secretary shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same, according to the requistions of such order.

Remedy of party aggrieved by entry in Register.

VII. And it is enacted, that, if any person shall after the passing of this Act print, or cause to be printed, either for sale or exportation, any book in which there shall be subsisting Copyright, without the consent in writing of the proprietor thereof, or shall have in his possession for sale or hire any such book so unlawfully printed without such consent as aforesaid, such offender, if he shall have so offended within the local limits of the jurisdiction of any of the Courts of Judicature etablished by Her Majesty's Charter, shall be liable to a special action on the case in such Court; and, if he shall have so offended in any other part of the teritories subject to the government of the East India Company, to a suit in the Zillah Court within the jurisdiction of which he shall have so offended, which shall and may be prosecuted in the same manner in which any other action of damages may be brought and prosecuted there; and if he shall have so offended in any such last-mentioned part of the territories subject to the government of the East India Company in which there is no Zillah Court, to a suit in the highest local Court exercising original Civil jurisdiction in such part of the said territories

Liability for breach of Copyright.

VIII. And it is hereby enacted, that, after the passing of this Act, in any suit or action brought in any of the Courts of Judicature established by Her Majesty's Charter under the provisions of this Act against any person for printing any such book for sale, hire, or exportation, or for selling, publishing, or exposing to sale or hire, or causing to be sold, published, or exposed to sale or hire, or for having in his possession for sale or hire, any such book so unlawfully printed, the defendant, on pleading thereto, shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action, and if the nature of his defence be that the palintiff in such actions was not the author or first publisher of the Book in which he shall by such action claim Copyright, or is not the proprietor of Copyrightt herein, or that some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the Copyright therein, then the defendant shall specify in such notice the name of the person whom he alleges to have been the author or first publisher

What particulars to be specified in defence of action under this Act in Supreme Court.

of such book, or the proprietor of the Copyright therein, together with the title of such book, and the time when and the place where such book was first published, otherwise the defendant in such action shall not, at the trial or hearing of such action, be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such Copyright as aforesaid, or that he was not the proprietor of the Copyright therein, and at such trial or hearing no other objection shall be allowed to be made on behalf of such defendant than the objections stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the Copyright therein, than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication, with the title, time and, place specified in such notice.

Do. in Local Court.

IX. And it is hereby enacted, that, after the passing of this Act, in any such suit or action as last aforesaid, brought in any Zillah Court or other local Court as aforesaid the defendant shall state in his answer all such matters as he means to rely on, and which by the last preceding Section the defendant in any suit or action brought in any of the Courts of Judicature established by Her Majesty's Charter is required to give noticeof in writing, otherwise such defendant shall be subject to the same consequences for any omission in his answer as a defendant is made subject to by the last preceding Section for any omission in his notice.

Right of publisher of periodical, etc.

X. And it is hereby enacted, that when any publisher or other person shall, within the said territories, before or at the time of the passing of this Act, but after the passing of the said Act of Parliament 3 and 4, Wm. IV., c. 85, have projected, conducted, and carried on, or shall hereafter project, conduct, or carry on, or be the proprietor of any Encyclopædia, Review, Magazine, Periodical work, or work published in a series of Books or Parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any Volumes, Parts, Essays, Articles, or Portions thereof, for publication in or as part of the same, and such Work, Volumes, Parts, Essays, Articles, or Portions shall have been, or shall hereafter be, composed under such employment, on the terms that the Copyright therein shall belong to such Proprietor, Projector, Publisher, or Conductor, and paid for by such Proprietor, Projector, Publisher or Conductor, the Copyright in every such Encyclopædia, Review, Magazine, Periodical work, or work published in a series of Books or Parts, and in every Volume, Parts, Essay, Articles and Portion so composed and paid for, shall be the property of such Proprietor, Projector, Publisher, or Conductor, who shall enjoy the same rights as if he were the actual author thereof, and shall have such term of Copyright therein as is given to the authors of Books by this Act, except only that in the case of Essays, Articles, or Portions forming part of and first published in Reviews, Magazines or other Periodical works of a like nature, after the term of twenty-eight years from the first publication thereof respectively, the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this Act. Provided always, that during the term of twenty-eight years the said Proprietor, Projector, Publisher, or Conductor shall not publish any such Essay, Article or Portion separately or singly, without the consent previously obtained of the author thereof or his assigns: Provided also, that nothing herein contained shall alter or affect the right of any person who shall have been or shall be so employed as aforesaid, to publish any such his composition in a separate form, who, by any contract, express or implied, may have reserved or may hereafter reserve to himself, such right, but every author reserving, retaining, or having such right, shall be entitled to the Copyright in such composition when published in a separate form according to this Act, without prejudice to the right of such Proprietor, Projector, Publisher, or Conductor as aforesaid.

Benefits of registration to extend to proprietor of periodical, etc.

XI. And it is hereby enacted, that the Proprietor of the Copyright in any Encyclopædia, Review, Magazine, Periodical work, or other work published in a series of Books or Parts, shall be entitled to all the benefits of the Registration in the office of the Secretary to the Government of India for the Home Department, under this Act, on entering in the said Book of Registry the title of such Encyclopædia, Review, Periodical work or other work published in a series of Books or Parts, the time of the first publication of the first Volume, Number, or Part thereof, or of the first Volume, Number, or Part first published after the passing of this Act, in any such work which shall have been published heretofore and after the passing of the said Act of Parliament 3 and 4, William IV., c. 85, and the name and place of abode of the Proprietor thereof, and of the Publisher thereof when such Publisher shall not also be the Proprietor thereof.

XII. And it is enacted, that all copies of any Book wherein there shall be Copyright, and of which entry shall have been made in the said Registry Book. and which shall have been unlawfully printed without the consent of the Registered Proprietor of such Copyright in writing under his hand first obtained, shall be deemed to be the property of the Proprietor of such Copyright, and who shall be registered as such, and such Registered Proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same or damages for the detention thereof.

Power of registered proprietor of Copyright to sue for damages for detention of unlawfully printed Copies of registered books.

XIII. And it is enacted, that, if the case be within the jurisdiction of any of the Courts of Judicature established by Her Majesty's Charter, such Registered Proprietor shall be entitled to sue for and recover such copies, or damages for the detention thereof, in an action of Detinue, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of Trover; and that, if the case be within the jurisdiction of any Zillah Court or other local Court as aforesaid, the Registered Proprietor shall be entitled to sue for and recover such copies or damages for the detention or conversion thereof, in such form as is in use in the said Zillah or other local Courts for the recovery of specific personal property, or damages for the detention or conversion thereof.

Forms of action in Supreme and local Courts.

XIV. And it is enacted, that no Proprietor of Copyright in any book first published after the passing of the said Act of Parliampent 3 and 4, Wm. IV. c. 85, shall maintain, under the provisions of this Act, any action or suit at law or in equity, or any summary proceedings in respect of any infringement of such Copyright, unless he shall, before commencing such action, suit, or proceeding have caused an entry to be made in the Book of Registry at the office of the said Secretary of such book, pursuant to this Act. Provided always, that the omission to make such entry shall not affect the Copyright in any book, nor the right to sue or proceed in respect of the infringement thereof, except the right to sue or proceed in respect of the infringement thereof ,under the provisions of this Act.

Power to sue under this Act confined to registered Copyright.

XV. And it is enacted, that if any action or suit shall be commenced or brought in any of the Courts of Judicature established by Her Majesty's Charter against any person or persons whomsoever, for doing, or causing to be done, any thing in pursuance of this Act, the defendant or defendants, in such action may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant. or the plaintiff shall become nonsuited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath in the said last-mentioned Courts.

Defendant in Supreme Court may plead the general issue, and recover full costs.

XVI. And it is enacted, that all actions, suits, bills, indictments, informations, and other criminal proceedings for any offence which shall be committed against this Act shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect.

Civil or Criminal proceedings for breach of this Act to be taken within twelve months after such breach.

XVII. Repealed by Act XIV. of 1870.

SCHEDULE.

No. 1.

Original Entry of Proprietorship of Copyright of a Book.

Time of making the Entry.	Title of Book.	Name of the Publisher and Place of Publication.	Name and Place of abode of the Proprietor of the Copyright.	Date of First Publication.

No. 2.

Form of Entry of Assignment of Copyright in any Book previously registered.

Date of Entry.	Title of Book.	Assigner of the Copyright.	Assignee of the Copyright.
	(Set out the Title of the Book and refer to the page of the Registry Book in which the original Entry of the Copyright thereof is made.)		

ACT No. IV. OF 1848.

1. Only 5 Jurors necessary on an Inquest in the Presidency Towns.
2. Fine for neglect of Juror to attend when summoned. Fine how to be enforced.
3. Inquisitions to hold good notwithstanding certain technical defects.
4. Power of coroner to appoint a Deputy, and revoke the appointment. Acts of Deputy to be deemed those of the Coroner.

An Act for regulating Coroner's Juries.

It is hereby enacted, that, from and after the First day of May, 1848, on all Inquests to be held by the Coroners of Calcutta, Madras, or Bombay, no greater number than five Jurors shall be necessary, and that every finding of a Jury consisting of five Jurors shall be, to all intents and purposes, as good, valid, and effectual in law, as if such finding had been the finding of twelve Jurors.

Only 5 Jurors necessary on an Inquest in the Presidency Towns.

II. And it is hereby enacted, that, when any person shall have been duly summoned to attend as a Juror by any of the said Coroners, and shall fail or neglect to attend at the time and place specified in such summons, it shall be lawful for any such Coroner to cause such person to be openly called in his Court three times to appear and serve as a Juror, and upon the non-appearance of such person, and proof that such summons has been served upon him, or left at his usual place of abode, to impose such fine upon the person so making default, not exceeding Fifty Rupees, as to such Coroner shall seem fit, and such Coroner shall make out and sign a Certificate, containing the name and surname, the residence and trade or calling of every person so making default, together with the amount of the fine which shall have been imposed, and the cause of such fine, and shall transmit such certificate to one of the Magistrates of the Presidency of which he is the Coroner, and shall cause a copy of such certificate to be served upon the person so fined, by having it left at his usual place of residence, or by sending the same through the Post Office, addressed as aforesaid, and thereupon such Magistrate shall cause such fine to be levied *according to the provisions of Act No. II. of 1839,** in the same manner as if such fine had been imposed by himself.

Fine for neglect of Juror to attend when summoned. Fine how to be enforced.

III. And whereas it is expedient to make provisions for supporting Coroner's Inquisitions, and for preventing the same from being quashed on account of technical defects.

Inquisition to hold good notwithstanding certain technical defects.

It is therefore hereby enacted, that no Inquisition found upon or by any Inquest of any of the said Coroners, nor any judgment recorded upon or by virtue of any such Inquisition, shall be quashed, stayed, or reversed for want of the averment therein, of any matter unnecessary to be proved, nor for the omission of the words "with force and arms," or of the words "against the peace," or of the words "against the form of the Statute," or for the omission or insertion of any other words or expressions of mere form or surplusage, nor for the insertion of the words " upon their oath," instead of the words "upon their oaths," nor for omitting to state the time at which the offence was committed, when time is not of the essence of the offence, nor for stating the time imperfectly, nor because any person or persons mentioned in any such Inquisition is or are designated by a name of office or other descriptive appellation instead of his, her, or their proper name or names, nor by reason of the non-insertion of the names of the Jurors in the body of any such Inquisition, or of any difference in the spelling of the names of any of the Jurors in the body of any such Inquisition and the names subscribed thereto, nor because any Juror or Jurors shall have set his or their mark or marks to any such Inquisition instead of subscribing his or their name or names thereto, nor because any such mark or marks is or are unattested, provided that the name or names of such Juror or Jurors is or are set forth, nor because any Juror or Jurors has or have seigned his or their Christian name or names, or other name or names which is not or are not a family name or names, by means of an initial or partial signature only, and not at full length, nor because of any erasures or interlineations appearing in any such Inquisition, unless the same shall be proved to have been made therein after the same was signed, nor (except only in case of murder or manslaughter) for or by reason of any such Inquisition not being duly sealed or written upon parch-

* The words Italicised have been repealed by Act XIV. of 1870.

ment, nor by reason of any such Inquisition having been taken before any Deputy instead of the Coroner himself, nor because the Coroner and Jury did not all view the body at one and the same instant, provided that they all viewed the body at the first sitting of the Inquest, and in all or any such cases of technical defect as are hereinbefore mentioned, it shall be lawful for any Judge of Her Majesty's Supreme Court at the Presidency at which such Inquest shall have been held, if he shall so think fit, upon the occasion of any such Inquisition being called in question before him, to order the same to be amended in any of the respects aforesaid, and the same shall forthwith be amended accordingly.

Power of Coroner to appoint a Deputy and revoke the appointment. Acts of Deputy to be deemed those of the Coroner.

IV. And it is enacted, that it shall be lawful for each of the Coroners of Calcutta, Madras, and Bombay, from time to time, to appoint, by writing under his hand and seal, a fit and proper person, such appointment being subject to the approval of the Governor of the Presidency of which he is the Coroner, to act for him as his Deputy in the holding of Inquests ; and all Inquests taken and other acts performed by any such Deputy Coroner, under and by virtue of any such appointment, shall be deemed and taken to be the acts and deeds of the Coroner by whom such appointment was made. Provided, that no such Deputy shall act for any such Coroner except during the illness of the said Coroner, or during his absence for any lawful and reasonable cause. Provided also, that every such appointment may at any time be cancelled and revoked by the Coroner by whom the same was made.

ACT No. XIV. OF 1848.

1. Supreme Court may issue Commissions to take affidavits and affirmations
2. Affidavit so taken to be deemed to be taken in the Court.
3. Penalty for making false affidavit &c. under Commission to be the same as if it had been made in Court.

To enable the Supreme Court of Calcutta to issue Commissions for taking Affidavits.

Whereas doubts are entertained whether the Supreme Court of Judicature at Fort William in Bengal has power on the Crown and Plea side of the Court, under the Charter of that Court, to grant a Standing Commission to take affidavits, or solemn affirmations, and it is expedient that such power be had and exercised as occasion requires. It is enacted as follows :

Supreme Court may issue Commissions to take affidavits and affirmations.

I. After the passing of this Act, the said Court shall have power to issue a Commission or Commissions from time to time under the Seal of the said Court, to such person or persons as the said Court shall think fit to name therein, empowering him or them, or any one or more of them, to take affidavits and solemn affirmations in any cause or other proceeding in the said Court, now or hereafter to be depending, or with the intent to substitute any proceeding whatever in the said Court.

Affidavit to be deemed to be taken in the Court.

II. Every Affidavit or solemn affirmation so taken shall be deemed to be taken in the said Court, and shall render the person or persons taking the same liable to payment of the same fees (if any), to be received and accounted for in the same manner, as in the case of an affidavit or solemn affirmation made and taken in Court.

Penalty for making false affidavit etc. under Commission to be the same as if it had been made in Court.

III. Every person so making any affidavit or solemn affirmation, knowing the same or any part thereof to be untrue, shall be liable to the same penalties in all respects as if such affidavit or solemn affirmation had been made and taken in open Court.

ACT No. XV. OF 1848.

1. Officers of Supreme Courts to accept no gift or reward other than their legal salary etc., nor to hold office in any Bank &c. or be concerned in dealings as a banker, trader, &c.

2. Practising advocates and attorneys excepted.
3. Certain unpaid offices excepted.
4. Penalty for contravention of Act.

An Act to forbid trading by the Officers of the Supreme Courts.

For the better discharge of their duties by the Officers of the undermentioned Courts of Justice, It is enacted as follows—

Officers of Supreme Courts to accept no gift or reward other than their legal salary etc., nor to hold office in any Bank etc., or be concerned in dealings as a banker, trader, etc.

I. No Officer of any of the Courts of Judicature established by Royal Charter within the territories subject to the Government of the East India Company, or of any Court established for the Relief of Insolvent Debtors within the said territories, shall, directly or indirectly, by himself, or by any other person or persons on his behalf, accept from any person or persons any gift or reward for any act or behaviour in his Office other than his legal salary and fees and profits of office, or hold any office in any Bank or Public Company, except as hereinafter excepted, or carry on or be concerned in any dealings as a banker or trader, or as agent, factor, or broker, either for his own advantage or for the advantage of any other person or persons, except such dealings as it may be part of the duty of any such Officer by virtue of his office to carry on.

Practising advocates and attorneys excepted.

II. This Act shall not be construed to forbid any Officer of any of the said Courts, who is also a practising Advocate, Attorney, Solicitor, or Proctor in any of the said Courts, from taking the usual fees and emoluments of Advocates, Attorneys, Solicitors or Proctors, nor to apply to any Advocate, Attorney, Solicitor, Proctor, Sheriff, Assignee, Receiver, or Committee, so far as he is held to be in that capacity merely for some purposes an Officer of any of the said Courts.

Certain unpaid offices excepted.

III. This Act shall not be construed to forbid any Officer of any of the said Courts from holding any unpaid office in any Society for charitable purposes, or for the advancement of knowledge, or for the encouragement of Science, Art, or Manufactures.

Penalty for contravention of Act.

IV. Every Officer of any of the said Courts who shall knowingly offend against this Act shall, on conviction thereof, be liable to be punished by deprivation of his office, and also, by the sentence of the Court before which he shall be convicted, may be declared incapable, and in that case shall become incapable, of being appointed to the same or any other office of the same Court, or to serve Her Majesty or the East India Company in the territories under the Government of the East India Company, or in such part of the said territories as shall be specified in the sentence, or, in the discretion of the Court, may be otherwise punished by fine, or fine and imprisonment for his misdemeanour, as to the Court shall seem fit, regard being had to the nature of his offence.

ACT No. XX. OF 1848.

1. Proprietor or Farmer not attending when duly summoned, or not furnishing accounts or documents liable to daily fine of Rupees 50.
2. The Collector to report imposition and levy of fines to Commissioner of Revenue.
3. Appeals to lie to the Commissioner, but not to prevent the levy of the fine in meantime.
4. More than Rs. 500 not to be levied without authority from the Commissioner.
5. Act not to affect the power of imposing daily fines, given by previous Regulations.
6. Interpretation of "Collector."
7. Act not to extend to N. W. Provinces.

An Act for better enforcing the attendance of Proprietors and Farmers of Land before Collectors of Land Revenue in the Lower Provinces of the Bengal Presidency.

Whereas, by sundry Regulations of the Bengal Code, provision is made for the imposition of a daily fine, by the Board of Revenue or other authority exercising the powers of that Board, on any proprietor or farmer of land subject to the provisions contained in the said several Regulations, who, when duly summoned by the Collector or other officer exercising the powers of Collector, shall omit or refuse to attend, or to cause his officer or agent to attend, or to furnish the accounts or documents required, and shall not show sufficient cause for such

omission; and it is further provided that the fine, when confirmed by Government is to be levied by the same process as is prescribed for the recovery of arrears of revenue; and whereas, in many cases, by the delay thus occasioned, the whole burden of the penalty is greatly increased beyond what would be necessary, if summary power were given to the Officer by whom the requisition is made, to impose and levy reasonable fines, subject to review by the Commissioner of Revenue and other superior authority,—It is enacted as follows:

Proprietor or Farmer not attending when duly summoned, or not furnishing accounts or documents liable to daily fine of Rs. 50.

I. If any proprietor or farmer of land shall omit or refuse to attend, or to cause his officer or agent to attend, when duly summoned by the Collector, in any case specified in any of the said Regulations, by the time prescribed in the notice issued by the Collector, or shall omit or refuse to furnish the accounts or documents required, and shall not show sufficient cause for such omission, the Collector may impose, of his own authority, such daily fine, to be payable daily until compliance with the requisition, as he may think adequate to the situation and circumstances in life of the defaulter, not exceeding in any case the daily fine of Fifty Rupees: and the amount of such fine accruing due from time to time may be levied without further confirmation, by the same process as is prescribed for the recovery of arrears of revenue.

The Collector to report imposition and levy of fines to Commissioner of Revenue.

II. The Collector shall forthwith report the imposition of every such fine, and the amount thereof, and also from time to time the amount levied, to the Commissioner of Revenue, who shall report the same for the information of the local Government.

Appeals to lie to the Commissioner, but not to prevent the levy of the fine in meantime.

III. Every order passed by a Collector under this Act shall be appealable in the usual manner to the Commissioner of Revenue, and other superior authority; but no such appeal shall avail to prevent the levy of any fine so imposed pending the appeal.

More than Rs. 500 not to be levied without authority from the Commissioner.

IV. Whenever the amount levied under any such order, issued for any default by authority of a Collector under this Act, shall have exceeded Five Hundred Rupees, the Collector shall report the case specially to the Commissioner of Revenue; and no further levy for such default shall be made, otherwise than by authority of the Commissioner of Revenue.

Act not to affect the power of imposing daily fines, given by previous Regulations.

V. Nothing in this Act contained shall be deemed to repeal the power of imposing daily fines, and of levying the fines so imposed, in the manner prescribed by the said several Regulations.

Interpretation of "Collector."

VI. The word "Collector" used in this Act shall be taken to mean any person lawfully exercising the powers of a Collector.

Act not to extend to N. W. Provinces.

VII. This Act shall not extend to the North West Provinces of the Presidency of Bengal.

ACT No. XXI. OF 1848.

1. Agreements of wager declared null and void, and no suit to be allowed for money won or deposited on a wager.

2. Repealed.

An Act for avoiding Wagers.

Whereas it is expedient to discourage gaming and wagering for money,—It is enacted as follows:

Agreements of wager declared null and void, and no suit to be allowed for money won or deposited on a wager.

I. All agreements, whether made in speaking, writing, or otherwise, by way of gaming or wagering, shall be null and void: and no suit shall be allowed in any Court of Law or Equity for recovering any sum of money or valuable thing alleged to be won on any wager, or entrusted to any person to abide the event of any game, or on which any wager is made.*

II. Repealed by Act VIII. of 1868.

* See Act VIII. 1867 exempting certain horse-racing proceedings from the operation of this Act.

ACT No. I. OF 1849.

1. Repealed.
2. What persons to be amenable to the law for offences committed within Foreign Territory.
3. Committing Magistrate to report case to Government.
4. Government may order trial to be held before ordinary Court.
5. If there is a competent Court, in the foreign territory where the offence was committed, Government may order trials to take place there.
6. Form of warrant of Commitment, and of bail bound.
7. Special order of Government to be full authority for trial of accused within, or conveyance of him out of, British Territories.
8. Meaning of Government."
9. Government may delegate to certain officers the powers under this Act.

An Act to provide more effectually for the punishment of Offences committed in Foreign States.

Whereas divers Regulations of the Bengal, Madras, and Bombay Codes have been made from time to time for the trial of Native Subjects of the British Government, committing criminal offences beyond the limits of the British Provinces, and it is expedient to make the same more effectual and uniform, and to extend the application thereof, It is enacted as follows :

I. Repealed by Act XIV. of 1870.

II. All Subjects of the British Government, and also all persons in the Civil or Military Service of the said Government, while actually in such service, and for six months afterwards, and also all persons who shall have dwelt for six months within the British Territories under the Government of the East India Company, subject to the laws of the said territories, who shall be apprehended within the said territories, or delivered in to the custody of a Magistrate within the said territories, wherever apprehended, shall be amenable to the law for all offences committed by them within the territory of any Foreign Prince or State ; and may be bailed or committed for trial as hereafter provided, on the like evidence as would warrant their being held to bail or committed for the same offence, if it had been committed within the British Territories.

What persons to be amenable to the law for offences committed within Foreign Territory.

III. The Committing Magistrate, immediately, and before the trial, shall report every such case to the Government, and shall obey the orders which he shall receive thereon.

Committing Magistrate to report case to Government.

IV. The Government may order the trial to be had before one of the established Courts of Criminal Judicature, which would be competent to try the person charged for the offence, if it had been committed within the British Territories.

Government may order trial to be held before ordinary Court.

V. When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by Officers acting under the authority of the East India Company, in which territory a Court, competent to try the person charged for the offence, is established by authority of the Governor-General of India in Council, the Government may order such person to be conveyed in custody out of the British territories, for the purpose of delivering him up for trial before such Court.

If there is a competent Court in the foreign territory where the offence was committed, Government may order trial to take place there.

VI. When the person charged is committed, the form of the warrant shall specify the commitment to be until the orders of Government can be received and acted on ; when he is bailed, the form of the bail-bond shall be in the first instance, to appear before the Magistrate on a certain day assigned, allowing reasonable time for receipt of the orders of Government, and on such subsequent days as the Magistrate from time to time shall require, and, if Government shall order the person charged to be tried within the Presidency, the Magistrate may cause the bail-bond to be renewed in the usual form, to appear and take his trial at the Court appointed for the purpose.

Form of warrant of Commitment, and of bail bond.

VII. In either case, the special order of the Government shall be deemed full authority, either for the trial and punishment of the person charged within the British Territories, or for conveying him in custody out of the British Territories, as aforesaid.

Special order of Government to be full authority for trial of accused within, or conveyance of him out of British Territories.

VIII. The word 'Government' as used in the third and following Sections of this Act, means the Governor or Governor in Council, or other person or persons

Meaning of "Government."

having supreme executive authority in the Presidency or place to which the Committing Magistrate belongs.

Government may delegate to certain officers the powers under this Act.

IX. The authority hereinbefore given to the Government may be also exercised by any Commissioner or other person acting in the Civil Service of the East India Company, to whom the Governor-General in Council shall have delegated authority to receive reports and give orders in case within this Act.

ACT No. VI. OF 1849.

1. Repealed.

2. Reduced pay or pension of Invalid officer &c., in service of E. I. Co., and monthly or yearly pension or allowances granted by Government, or the Commissioners of Chelsea or Greenwich Hospital, to be exempt from seizure under process or decree of Court for debt.

3. All assignments, &c., in anticipation upon such pensions, are null and void.

4. Repealed.

For securing Military and Naval Pensions and Superannuation Allowances.

Whereas it is expedient to consolidate and extend the operation of the law, as to the exemption of Military and Naval Pensions, and other Superannuation Allowances, from seizure under process of law, It is enacted as follows:

I. Repealed by Act XIV. of 1870.

Reduced pay or pension of Invalid officer, etc., in service of E. I. Co., and monthly or yearly pension or allowances granted by Government, or the Commissioners of Chelsea or Greenwich Hospital, to be exempt from seizure and process or decree of Court for debt.

II. The reduced pay or pension, however called, of any Invalid Officer, Soldier, Sailor or Retainer of the Army or Navy, in the Military or Naval Service of the East India Company, and also any monthly or yearly pension, or pecuniary advance to any person, in consideration of past services and present infirmities, or old age, granted by authority of the Governor-General in Council, or of the Governor or Governor in Council, or Lieutenant-Governor, of any Presidency or place within the territories under the Government of the East India Company; and also the pension of any Out-Pensioner of Chelsea or Greenwich Hospital, granted by authority of the Commissioners of Chelsea or Greenwich Hospital respectively, and also all money due, or to become due, on account of any such pension or allowance, shall be exempt from seizure, attachment, or sequestration by process of any Court within the said territories, at the instance of a creditor for any demand against the Pensioner, or in satisfaction of a decree or order of any such Court.

All assignments, etc., in anticipation upon such pensions, are null and void.

III. All assignments, agreements, orders, sales and securities of every kind made by any such Pensioner, in respect of any money not payable at or before the making thereof, on account of any such pension, or for giving or assigning any future interest therein, are null and void.

ACT NO. XI. OF 1849.*

1. Repealed.

2—3. Excise from retail Sale of Spirits, &c., in Calcutta to be under charge of the Collector of Calcutta, who may appoint Abkaree Officers.

4. Penalty for retail Sale of Spirits, etc., without license.

5. What to be deemed a retail Sale.

6. Sale of larger quantities except under pass to licensed retail dealers, &c., prohibited.

7. The Board to regulate the form of License.

8. Retail dealer to execute a counterpart engagement.

9—10. License fee and withholding of license.

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* See Act XVIII. 1856, Sec. 3.

11. Surrender of license.
12. Repealed.
13. Levy of arrears of Tax by distress and sale.
14. Penalty for breach of conditions. Responsibility of Dealer for default of Servant.
15. Penalty for having in possession excess quantity of Liquors, &c., without License or pass; penalty in case of Opium.
16. Spirits, &c., and Vessels, &c., may be confiscated.
17. Powers to enter and inspect licensed dealer's house.
18. Penalty for not keeping license at the place licensed, or not showing it on demand.
19. Power to detain persons carrying Liquor, etc., without a pass, and to seize the Liquors, &c.,
20. Power of Collector to authorise Abkaree Officers to enter and search premises and seize liquor. Rules regarding entry of zenanas.
21. Constables, etc., to assist Abkaree Officers on request.
22. Abkaree Officer making arrest or seizure, or searching a house, to carry the person and property to the Collector. Collector may release, or send to a Justice of the Peace.
23. Pehalty for maliciously giving false information.
24. Penalty for obstructing Abkaree Officer, etc.
25. Penalty on Abkaree Officer delaying to carry before the Collector the person arrested, &c., or to report particulars.
26. Penalty for vexatious seizure or arrest.
27. Penalty on Abkaree Officer for connivance.
28. Penalty on Abkaree Officer asking or taking or any one offering a bribe.
29. Seizure to be determined summarily by Justice.
30. When Justice may confiscate the goods.
31. Fines under this Act, except under Sec. 38, to be adjudged by Justice. Limitation of action.
32. Additional penalty for second offence, and increased penalty for subsequent offences.
33. Half of fines, and proceeds of Sale to be given to the informer, except in case of Opium. Rewards when no fine is realised.
34. Fines belong to Government, but Board may grant out of them rewards or compensation.
35. Write of Certiorari not to lie.
36. Commissioner of Abkaree may call for the proceedings and alter order.
37. Limitation of action and notice to be given. Tender of amends, or payment into Court, to bar action.
38. Power of Collector to punish for contempt, subject to appeal.

For securing the Abkaree Revenue of Calcutta.

For better securing the Abkaree Revenue of Calcutta it is enacted as follows:

I. Repealed by Act XIV. of 1870.

II. The collection of the Revenue arising from the retail sale of Spirituous or Fermented Liquors and intoxicating drugs, within the Town of Calcutta, shall be under the charge of the Collector of Calcutta, who shall perform the duties connected therewith under the control of the Commissioner of Abkaree and the Board of Customs, Salt and Opium; and all proceedings of the Collector held under this Act shall be subject, with or without appeal, to their revision.

Excise from retail Sale of Spirits, etc., in Calcutta to be under charge of the Collector of Calcutta who may appoint Abkaree Officers.

III. The Collector may appoint Constables, Darogahs, Jemadars, Burkundauzes, and other officers, for collection of the said Revenue and prevention of smuggling; and the officers so appointed, beside their ordinary respective designations, shall be styled "Abkaree" Officers

IV. Every person who shall sell, by retail, any spirituous or Fermented Liquors or intoxicating drugs hereinafter specified, within the Town of Calcutta, without the license for that purpose, under the hand and seal of the Collector of Calcutta, shall be liable to a fine, not exceeding Five Hundred Rupees, for each sale; but this enactment shall not apply to wholesale dealers selling such small quantities of Beer, Wines, or Spirits, as may appear to the Collector to be intended only as samples.

Penalty for retail Sale of Spirits, etc., without license.

V. A sale of English or Foreign Beer, Wines, or Spirits, in any quantity not exceeding two gallons, or of Bengal Arrack or Rum or other country spirit, in any quantity not exceeding one seer, or of Tauree in any quantity not exceeding four seers, or of Ganjah or Bhang, or any preparation or admixture of the same, in any quantity not exceeding one quarter of a seer, or of Churrus, Opium, Chundoo, or Muddut, or any preparation or admixture of the same, in any quantity not exceed-

What to be deemed a retail Sale.

ing the weight of five tolahs, shall be deemed a retail sale within the meaning of this Act.

Sale of larger quantities except under pass to licensed retail dealers, etc., prohibited.

VI. The sale of Bengal Arrack or Rum or other country Spirit, or of Tauree, or of Ganjah, or Bhang, or any preparation or admixture of the same, or of Churrus, Opium, Chundoo, or Muddut, or any preparation or admixture of the same, in quantities larger than those specified for each Article in Section 5, of this Act, is prohibited; and every person, who shall act in breach of this prohibition, shall be liable to the fine prescribed in Section 15, for the illicit possession of these Articles: but the prohibition does not apply to the sale of Spirituous or Fermented Liquors and intoxicating drugs, imported into Calcutta under passes from the Collector, or other officer duly empowered in that behalf, and supplied by wholesale to licensed retail dealers, or to the sale of Bengal Rum under bond for exportation by Sea, or to the sale of Opium intended for exportation by Sea, and covered by a Certificate to that effect, issued under the authority of the Board of Customs, Salt, and Opium.

The board to regulate the form of License.

VII. The Board of Customs, Salt, and Opium shall have authority, at all times, to regulate the form the licenses to be granted under this Act, and to alter and add to the conditions thereof.

Retail dealer to execute a counterpart engagement.

VIII. Every person taking out a license for the retail sale of Spirituous or Fermented Liquors, or intoxicating drugs under this Act, shall execute a counterpart engagement in exact conformity with the tenor of such license.

License fee and withholding of license.

IX. Whenever a license shall be granted under this Act, the Collector shall be authorised to demand, in consideration of the privilege granted, such fee, tax, or duty as may, from time to time, be fixed, with the sanction of the Board of Customs, Salt and Opium; and such fee, tax, or duty, may be made payable in advance, or at such period as may be settled by the Collector.

X. The Collector may withhold or recall license, if any such fee, tax, or duty be not duty paid according to the conditions upon which the license is granted, or in case of a breach of any of the other conditions thereof; or with the sanction of the Commissioner of Abkaree, for any other cause, giving one month's notice of such withdrawal; and any person selling, by retail, any Spirituous or Fermented Liquors or intoxicating drugs above specified, within the Town of Calcutta, whilst such license is withheld, or after it is recalled, shall be subject to all the penalties provided by this Act for the unlicensed sale of Spirituous or Fermented Liquors or intoxicating drugs.

Surrender of license.

XI. Any licensed detal Dealer may surrender his license, on giving fifteen days,' previous notice to the Collector, and paying a sum equal to the tax for that time, over and above the sum payable under the license.

XII. Repealed by Act XIII. 1856.

Levy of arrears of Tax by distress and sale.

XIII. The Collector, after demand made in writing, may levy any arrear of tax or duty, due or account of any license granted under this Act, by distress and sale of the goods and chattels of the person from whom the same is due; provided, that no such arrear shall be recoverable after the end of two years next after the same shall have become due, or next after an acknowledgment of the same in writing shall have been given by the person by whom the same is payable.

Penalty for breach of conditions. Responsibility of Dealer for defaults of Servant.

XIV. A breach of any of the conditions of a license granted under this Act shall, beside entailing forfeiture of the license, be punishable by a fine not exceeding fifty Rupees; and such fine shall be recoverable from the licensed Dealer, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop.

Penalty of for having in possession excess quantity of Liquors, etc., without License or pass; penalty in case of Opium.

XV. Any person, not being a licensed Dealer, having in his possession, and any person carrying within the Town of Calcutta, any greater quantity of spirituous or fermented liquors or intoxicating drugs above specified or any preparation or admixture of the same, except English and Foreign Beer, Wines and Spirits, then the quantity specified for each article in Section 5, of this Act, and not being protected by a pass or permit from the Collector, or other officer duly empowered in that behalf, shall be liable to a fine not exceeding Five Hundred Rupees except in the case of Opium; and in the case of Opium, to a fine not exceeding the rate of sixteen Rupees for each seer found in the possession of, or carried by such person; and if such last mentioned fine shall not amount to Five Hundred Rupees, such person shall be liable to a further fine, not exceeding such sum as shall make the total fine imposed amount to Five Hundred Rupees.

Spirits, etc., and Vessels, etc., may be confiscated.

XVI. Beside the penalties above specified for the illicit sale, possession, and carrying of spirituous or fermented liquors or intoxicating drugs, all such liquors and drugs found in the possession of any offender against this Act shall be seized and confiscated; and the vessels, packages, and covering, in which such liquors and drugs are found, and the animals and conveyances used in carrying them, shall also be liable to seizure and confiscation.

XVII. Any Abkaree Officer above the rank of a peon or chuprassy may enter and inspect at any time, by day or by night, and any Abkaree Officer may enter and inspect by day, the house or shop in which any licensed Dealer shall carry on the sale of spirituous or fermented liquors, or intoxicating drugs.

Powers to enter and inspect licensed dealer's house.

XVIII. Every person holding a license for the sale of spirituous or fermented liquors or intoxicating drugs shall keep such license at the house or shop specified in the license, and shall show the license on the demand of any Abkaree Officer who shall desire to see the same; and any licensed Dealer, who shall refuse or be unable to produce his license, on the Demand of any Abkaree Officer, shall be liable to a fine not exceeding Two Hundred Rupees.

Penalty for not keeping license at the place licensed, or not showing it on demand.

XIX. Any Abkaree Officer may *stop and detain any person carrying* any spirituous or fermented liquors or intoxicating drugs without a pass, or otherwise liable to confiscation under this Act, and may seize the liquors or drugs, with the vessels, packages, and coverings in which the liquors or drugs are found, and the animals and conveyances used in carrying them.*

Power to detain persons carrying Liquors etc., without a pass, and to seize the Liquors, &c.

XX. If the Collector has good reason to believe, either from information given by any Abkaree Officer or other person, to be taken down in writing, or from his own knowledge, or from the proceedings in any other case, that any spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Act, are kept or concealed in any place, the Collector, by warrant under his hand, may empower any Abkaree Officer, above the rank of jemadar of Peons, between sunrise and sunset, but always in the presence of a Constable or other Officer of the Peace, to enter into every such place, where any such liquors or drugs are suspected to be kept or concealed, and to seize and carry away such liquors or drugs, and, in case of resistance, to break open any door, and to force and remove any other obstacle to such entry, search, seizure or removal as aforesaid; and to arrest and detain the owner or occupier of the premises with all parties whom he suspects to be concerned in the unlawfully keeping or concealing of such liquors or drugs, whom he shall find on the premises: Provided that, where there is ground to suspect that such liquors or drugs are unlawfully concealed in any zenana, the Officer charged with the execution of the warrant shall follow, as closely as may be, the rules for the seizure of property so concealed, adopted by the Supreme Court of Judicature at Fort William.

Power of collector to authorise abkaree officers to enter and search premises and seize liquor. Rules regarding entry of zenanas.

XXI. All Constables and other Ministerial Officers of the Peace are required to help the Abkaree Officers in the due execution of this Act, upon notice given, or request made by any such Abkaree Officer: and any Officer who, without lawful excuse, shall refuse or neglect to assist as aforesaid, on being required to do so, shall be liable to the penalty prescribed by Section 27, of this Act, for Abkaree Officers conniving at the escape of a person arrested under this Act.

Constables etc., to assist Abkaree Officers on request.

XXII. Whenever any Abkaree Officer, duly authorized under this Act, shall arrest any person, or shall seize any spirituous or fermented liquors or intoxicating drugs, or shall enter any house or shop for the purpose of searching for such illicit articles, he shall carry the person arrested, with the illicit articles seized, with all convenient despatch, to the Collector, and shall, within twenty-four hours thereafter, make a full report to the Collector of all particulars of such arrest, seizure, or search; and the Collector, after such further enquiry as he deems necessary, shall forthwith either release the person arrested, or send him in custody to a Justice of the Peace for the Town of Calcutta.

Abkaree Officer making arrest or seizure, or searching a house, to carry the person and property to the Collector. Collector may release, or send to a Justice of the Peace.

XXIII. Every person, who shall maliciously give false information against any person, for being engaged in the unlicensed sale of spirituous or fermented liquors, or intoxicating drugs, or for having in his possession, or carrying, or in respect of there being in any house or shop, any spirituous or fermented liquors, or intoxicating drugs, in contravention of this Act, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment in the Common Jail, for a period not exceeding six months, or to both.

Penalty for maliciously giving false information.

XXIV. Every person, who shall obstruct or molest any Abkaree Officer, or any person acting in aid of such Officer, in the due execution of this Act, shall be liable to a fine, not exceeding Five Hundred Rupees; and such person shall be further liable, if an affray or breach of the peace shall happen in consequence of his resistance, on conviction of the same before a competent tribunal, to such punishment as is prescribed by law for cases of affray and breach of the peace, in addition to the penalty above prescribed for resistance of process.

Penalty for obstructing Abkaree Officer etc.

XXV. Any Abkaree Officer, who shall delay carrying to the Collector any person arrested or any illicit articles seized under this Act, or who shall neglect to report the particulars of an arrest, seizure, or search, within twenty-four hours thereafter shall be liable to a fine, not exceeding Two Hundred Rupees.

Penalty on Abkaree Officer delaying to carry before the Collector the person arrested, &c., or to report particulars.

Penalty for vexatious seizure or arrest.

XXVI. Any Abkaree Officer, who shall vexatiouly and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for illicit spirituous or fermented liquors or intoxicating drugs, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess not required for the execution of his duty, shall be liable to a fine, not exceeding Five Hundred Rupees.

Penalty on Abkaree Officer for connivance.

XXVII. Any Officer employed in the Abkaree Department, who shall unlawfully release or connive at the escape of any person arrested under this Act, or connive at the sale of spirituous or fermented liquors or intoxicating drugs without license, or by any licensed dealer contrary to the terms of such license, or act in a manner inconsistent with his duty, for the purpose of enabling any person to do any thing, whereby any of the provisions of this Act may be evaded or broken, or the Abkaree Revenue defrauded, shall be liable to a fine, not exceeding Five Hundred Rupees.

Penalty on Abkaree Officer asking or taking or any one offering a bribe.

XXVIII. Any Abkaree Officer, who shall ask or take any gratuity, not authorised by any law or order of Government, or of the Board of Customs, Salt and Opium, in consideration of doing or of omitting to do any act in his official capacity, and any person who shall offer a bribe to any such Officer, in order to induce such Officer to act in a manner inconsistent with his duty, shall be liable for every such offence to a fine, not exceeding Five Hundred Rupees.

Seizure to be determined summarily by Justice.

XXIX. Whenever any goods or chattels shall be seized by an Abkaree Officer as liable to confiscation under this Act, such seizure shall, upon information exhibited by order of the Collector, be heard and determined in a summary way by any Justice of the Peace for the Town of Calcutta; and such Justice shall cause the persons to whom such goods and chattels belong to be summoned to appear before him, and upon their appearance or default shall examine into the cause of the seizure thereof, and give judgment; and, if such judgment shall be for confiscation of the goods or chattels seized, shall issue his warrant to the Collector for the sale or disposal thereof, according to such orders as the Collector may receive from the Board of Customs, Salt, and Opium.

When Justice may confiscate the goods.

XXX. Whenever any goods or chattels shall be seized as aforesaid, and within one Calendar month no person shall appear before the Collector to claim the same, the Justice shall examine into the case of seizure, at a place and time, of which notice shall have been given by the Collector in the *Calcutta Gazette*, and give judgment for the confiscation of such of the goods and chattels, as, upon such examination, shall appear to him liable to forfeiture; and, upon confiscation thereof, shall issue his warrant for the disposal of them, as if the owner had been summoned to attend the said Justice.

Fines under this Act, except under Sec. 31, to be adjudged by Justice. Limitation of action.

XXXI. All fines leviable under this Act, except under Section 38, shall be adjudged by any Justice of the Peace for the Town of Calcutta, and the said Justice, upon information exhibited before him by order of the Collector, shall forthwith summon the parties accused, and upon their appearance or default shall examine into the matter, and upon due proof made thereof, by the voluntary confession of the parties, or by the oath or solemn affirmation, in cases wherein a solemn affirmation is receivable by law instead of an oath, of one or more credible witnesses, shall give judgment accordingly; and, in default of payment of any fine to which an offender is adjudged, he shall be liable by order of the said Justice, to imprisonment in the common Jail, for a period not exceeding six months, or until the fine is sooner paid; and no proceedings shall be taken under this Section by any Justice of the Peace after the expiration of three Calendar months from the date of the offence by which the fine was incurred.

Additional penalty for second offence, and increased penalty for subsequent offence.

XXXII. Whenever any person shall be convicted before any such Justice as aforesaid of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment in the common Jail, for a period not exceeding six months; and a like punishment of imprisonment, not exceeding six months, shall be incurred in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Half of fines, and proceeds of Sale to be given to the informer, except in case of Opium. Rewards when no fine is realised.

XXXIII. One-half of all fines levied from persons convicted of the illicit possession, carrying, or sale of spirituous or fermented liquors or intoxicating drugs, and of the proceeds from sale of articles confiscated, except Opium, (and in the case of Opium, confiscated and declared by the Opium Examiner at the Presidency to be fit for use, a reward of one Rupee eight Annas for each seer,) shall upon adjudication if the case be awarded to the Officer or Officers who apprehended the offender, or seized the illicit articles, and the other half, or in the case of Opium as aforesaid, a reward of one Rupee eight annas for each seer, shall be given to the Informer; and if no fine is realized, the Board of Customs, Salt, and Opium may grant such reasonable reward, not exceeding the sum of two hundred

Rupees as may appear to them fit : and the Board of Customs, Salt and Opium may direct, by general order, what class of Abkaree Officers shall receive rewards, and what classes shall have no title to share therein.

Fines to belong to Government, but Board may grant out of them rewards or compensation.

XXXIV. All fines levied under this Act, the disposal of which is not specially provided for, shall belong to Government ; but the Board of Customs, Salt and Opium may grant any portion thereof, not exceeding one-half, as rewards to Informers, or as compensation to parties injured by any proceedings under this Act.

Writ of Certiorari not to lie.

XXXV. No writ of *Certiorari* shall be issued at the suit of any party out of the Supreme Court of Judicature, to supersede, stay, remove, or in anywise affect any information or Judicial proceeding before any Justice of the Peace, in pursuance of this Act ; and no judgment thereupon shall be quashed, except for error of law apparent no the face of the judgment.

Commissioner of Abkaree may call for the proceedings and alter order.

XXXVI. When any penalty or confiscation shall be adjudged by a Justice of the Peace under this Act, *the Commissioner of Abkaree,** and, in his absence, the Board of Customs, Salt and Opium, within one month after judgment given, may call for the proceedings of the case (with which requisition the Justice of the Peace shall be bound to comply) and, if he or they shall see cause, may direct that he seizure or any part thereof be restored, and may remit or mitigate any penalty, and discharge the party.

Limitation of action; and notice to be given. Tender of amends, or payment into Court, to bar action.

XXXVII. All actions and prosecutions to be commenced against the Collector or any Abkaree Officer, or any person acting in aid of any such Officer, for any thing, done in pursuance of the Act, shall be commenced within three Calendar months after the fact committed, and not afterwards ; and notice in writing of such action, and the cause thereof, shall be given to the Defendant one Calendar months at least before the commencement of the action ; and no Plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if, after action brought, a sufficient sum of money shall have been paid into Court, with costs, by or on behalf of the Defendant.

Power of Collector to punish for contempt, subject to appeal.

XXXVIII. The Collector, in respect of the duties to be performed by him under this Act, shall have power to punish any contempt committed in his presence in open Cutcherry, by fine, not exceeding Two Hundred Rupees, commutable, if not paid, to imprisonment in Common Jail, for a period not exceeding one month ; provided, that an appeal from any order Passed under this Section shall lie to the Commissioner of Abkaree, and in his absence, to the Board of Customs Salt and Opium ; and the decision of the Commissioner or Board thereon shall be finel.

* Act III. 1856, Sec. 1, substitutes the Commissioner of Revenue for the Commissioner of Abkaree.

ACT No. V. OF 1850.

Foreign, to possess equal freedom with British, Ships in the Coasting Trade of India.

An Act for freedom of the Coasting Trade of India.

Whereas by an Act of Parliament passed in the thirteenth year of the reign of Her Majesty, intituled, *An Act to amend the Laws in force for the encouragement of British Shipping and Navigation*, it is enacted with regard to the Coasting Trade of India, that it shall be lawful for the Governor-General of India in Council to make any Regulations authorizing or permitting the conveyance of goods or passengers, from one part of the possessions of the East India Company to another part thereof, in other than British Ships, subject to such restrictions or Regulations as he may think necessary, It is enacted as follows :

Foreign to possess equal freedom with British Ships in the Coasting Trade of India.

1. Goods and Passengers may be conveyed, from one part of the territories under the Government of the East India Company to another part thereof, in other than British Ships, without any restriction, other than is or shall be equally imposed on British Ships, for securing payment of duties of customs or otherwise.

ACT No. IX. OF 1859.†

1—5. Constitute new Courts, to be called "Courts of Small Causes," which shall after proclamation exercise the same jurisdiction as the old Courts of Commissioners and of Requests in the Presidency Towns; prior provisions repealed, and terms "Governor-General in Council" and "Supreme Court" defined.

6. "Small Cause Courts" to be Courts of Record.

7. Proceedings previously commenced to be continued under this Act.

8—10. Constitution of Court; restrictions upon, and removal of Judges.

11—12. Judge of Supreme Court, sitting therein may act as Small Cause Court Judge; duties of Clerk and Bailiff in such case by whom to be performed.

13—14. Appointment, removal and duties of Clerk.

15—16. Ditto of Bailiffs.

17. Restrictions on Clerk and Officers.

18. Security to be given by Clerk and Bailiffs.

19—21. Fees, and rules regarding them.

22. Rules may be made by Government for security of balances with officers of Court.

23. Holidays. Judges may sit together or apart.

24. Penalty for forging seal of Court or enforcing false process.

25. Jurisdiction of Court.

26. Form and mode of service of summons.

27. Mistatement of cause of action not to vitiate suit. Procedure in such cases.

28. Venue.

29—30. Service of process out of district.

31. In what cases Minor may sue.

32. Jurisdiction to extend to balance of partnership account, or distributive share under an intestacy or to legacy.

33. Power of Executor or Administrator to sue. Proviso.

34. Plaintiff may not divide the cause of action, but may abandon excess beyond Rs. 500.

35. Certain functionaries exempted from arrest.

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† Act XXVI. 1864 to be read with this Act.

36. Service of process upon one of several defendants jointly answerable, to be good against all; in case of misjoinder, Judge may order suit to proceed against such defendants only as are answerable.

37. Questions of fact, Law or Equity, to be determined as in Supreme Court.

38. Judge to try the case summarily on appearance.

39. Set-off may be pleaded.

40. Judge may refer to arbitration with consent of parties.

41. May make general rules and forms.

42. Procedure on non-appearance of plaintiff, or on his failure to prove his case.

43. Ditto on non-appearance of defendant,

44. Court may allow time to either party, or adjourn hearing.

45. Defendant may pay money into Court, and if plaintiff elect to proceed and recover no greater amount, he shall pay the costs.

46. Examination of parties as witnesses.

47. Examination of witnesses; false evidence.

48. Parties may obtain Subpœnas from the Clerk.

49. Penalty for disobeying Subpœna, or refusing to give evidence.

50. In what cases warrant against person may issue.

51. Fine under this Act how to be enforced.

52. Payment of costs how to be governed.

53. Order of Court shall be final, but Judge may order nonsuit and may grant a new trial.

54. Removal into Supreme Court of cases over Rs. 100.

55. Question of law may be referred to Supreme Court, and must be so referred where two Judges differ.

56. Court may direct payment to be by instalments.

57. Execution in case of cross judgments.

58. Execution may be against either the body or goods. Police to assist Bailiff.

59. Execution may issue forthwith in default of payment of any instalment.

60. Imprisonment of debtor taken in execution.

61. Execution shall not issue simultaneously against both body and goods, nor twice against the body.

62. Nor till diet money for one week be deposited.

63. Creditor to deposit with the Jailor diet money for the rest of the month on notice of execution, and thereafter monthly in advance.

64. In default, debtor to be discharged.

65. Diet money to be charged as costs.

66. Power of Court to discharge prisoner on his giving security.

67. Prisoner to be immediately discharged on payment.

68. Debtor's property to remain liable notwithstanding imprisonment.

69. What may be seized in execution.

70. Procedure in case of seizure of securities for money.

71. Court may suspend execution, in case of defendant's sickness &c.

72. Goods seized when to be sold.

73.—75. Appraisement and sale of goods seized.

76. Costs of appraisement and sale.

77. Account to be kept by Clerk.

78. Execution of Judgment in case defendant quit jurisdiction.

79. Suspension of Execution on writ of error or supersedeas when amount exceeds Rs. 100.

80. What to be stated on warrant; effect of tender of amount stated before sale.

81. Record how to be kept and authenticated. Certified copy thereof to be evidence.

22. Periodical list to be made and published of unclaimed monies; disposal of the same if unclaimed for six years.

83. Penalty for contempt of Court.

84. Ditto for assault on Officer or Bailiff or rescue of person or goods seized.

85. Liability of Bailiff for neglect.

86.—87. Penalty on Clerk, Bailiff, or Officer for extortion or misconduct, or not duly accounting for money levied or corruption.

88. Procedure when goods of wrong person are seized.

89. Powers of Act VII. 1847, extended to distresses for rent not exceeding Rs. 500.

90. Affidavit of such arrear how to be made.

91 Court may Summon tenants holding over after determination of lease or occupying without leave, where yearly rent does not exceed Rs. 500.

92. In case of non-appearance of defendant, the owner may prove his case.

93. On proof of service of Summons, Court may issue warrant of possession. Entry under same when to be made. Warrant to protect Bailiff, but not the person suing it out.

94. Service of Summons to be personal, unless Court direct otherwise.

95. No action to lie against Court or Clerk on account of want of right of person suing out warrant.

96. Where such person has lawful right to possession, irregular execution of warrant shall not be a trespass, but party aggrieved may sue for special damage.

97. Suing out warrant by person without right of possession to be a trespass, whether entry be made or not. Execution of warrant may be stayed, if tenant give security to try the right.

98. Recovery of possession not to bar suit for title in Supreme Court.

99. Bonds to be given to plaintiff, approved and attested by the Court. Forfeiture and realisation thereof

100. Actions against Officers of the S. C. Court, not being for goods seized in execution.

101. If plaintiff brings in the Supreme Court an action which might have been brought in the S. C. Court, and obtain verdict for less than amount recoverable in latter Court, he shall recover no costs; and if he obtain no verdict, defendant shall recover full costs.

102. Plaintiff suing an officer of the S. C. Court in the Supreme Court, and obtaining verdict for less than Rs. 500, shall recover no costs unless the Judge certifies.

103. Recovery of penalties, fines and forfeitures under this Act when not specially provided for.

104. Detention of offender in case of non-payment

105. Committal of offender if amount of warrant be not levied.

106. Penalties how to be paid and credited.

107. Justice may proceed by summons to recover penalties.

108. Form of conviction.

109. No order, verdict, &c., to be quashed for want of form.

110. Want of form not to invalidate distress, bnt party aggrieved may sue for special damages.

111. Limitation of actions.

An Act for the more easy Recovery of Small Debts and Demands in Calcutta, Madras and Bombay.

Whereas it is expedient to amend the constitution and practice, and to extend the jurisdiction, of the several Courts established at Calcutta, Madras and Bombay, for the Recovery of Small Debts, It is enacted as follow :

Constitute new Courts, to be called "Courts of Small Causes," which shall after proclamation exercise the same Jurisdiction as the old Courts of Commissioners and of Requests in the Presidency Towns ; prior provisions repealed, and terms "Governor General in Council" and "Supreme Court" defined.

I. The several Courts of Commissioners, and of Requests for the Recovery of Small Debts, now holden in the Towns of Calcutta, Madras and Bombay, under the authority of the Charter of Justice of King George the Second, and of two Acts of Parliament, severally passed in the thirty-seventh year and fortieth year of the reign of King George the Third, and of the Regulations and Proclamations made, from time to time, for constituting and for new-modelling, altering and reforming the constitution and practice of the said Courts respectively, and of Act XII. 1848, shall be holden according to the provisions of this Act, from and after such several days as shall be declared within the said Towns by proclamation, to be made and published in due form of law in each of the said Towns by the Governor in Council.

II. Where in this Act the words "Governor in Council," or "Supreme Court," are used, they shall be taken to apply severally to the person or persons administering the executive Government, and to the Supreme Court established under Royal Charter of each of the Presidencies of Fort William in Bengal, Fort St. George and Bombay, with reference only to the Court holden under this Act, in the same Presidency.

III. From and after the day declared in any such proclamation, all provisions of the said Charter of Justice, and Acts of Parliament, and of any Regulation, Act or Proclamation heretofore made, concerning the constitution or practice of the Court referred to in such proclamation, shall be rescinded and repealed.

IV. The style of the several Courts holden under this Act shall be the ( ) Court of Small Causes, inserting in the blank space, Calcutta, Madras or Bombay, as the case requires.

V. The jurisdiction of the several Courts, holden under this Act, shall extend over the whole district now within the jurisdiction thereof respectively, and over such further district as may, from time to time, be declared by proclamation of the

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Governor in Council: provided, that no proclamation for extending the district of any of the said Courts be made without the previous sanction of the Governor-General of India in Council.

VI. Every Court holden under this Act shall be a Court of Record, and shall be deemed a Court of Requests within the meaning of Act VII. 1841, Section 6.

"Small Cause Courts" to be Courts of Record.

VII. All proceedings commenced in any of the said Courts, before the time when the constitution and practice of such Court shall be altered under this Act, may be continued, executed and enforced against all persons liable thereunto, in the same manner as if they had been according to this Act: and each of the said Courts shall be empowered, in any case of doubt as to the proper manner of continuing, executing or enforcing any such proceedings, to make such order thereon as shall appear to the Court to be necessary for giving full effect to this enactment.

Proceedings previously commenced to be continued under this Act.

VIII. The Governor in Council shall appoint as many persons as are necessary, not exceeding three, to be Judges of the Court, one of whom shall be a Barrister at Law, or Advocate of one of the Supreme Courts of India, or of the Court of the Session in Scotland.

Constitution of Court.

IX. No Judge appointed under this Act shall, during his continuance as such Judge, practise as an Advocate, Attorney or Vakeel in any of the Queen's Courts, or in any Court of the East India Company, or trade or traffic for his own benefit, or for the benefit of any other person, or be the partner of any person so practising, trading or trafficking.

Restrictions upon Judges.

X. The Governor-General of India in Council may remove any such Judge on the application of the Governor in Council.

Removal of Judges.

XI. Any Judge or Judges of the Supreme Court of Judicature, who shall consent to aid in the execution of this Act, may exercise all the powers of a Judge appointed under this Act, and suits may be tried by him sitting in the Supreme Court under this Act, in like manner as if he were a Judge of the Court of Small Causes, and no appointment of a Judge under this Act shall be made, while it appears to the Governor in Council that the whole business of the Court can be transacted by the Judges of the Supreme Court so consenting to act.

Judge of Supreme Court, sitting therein, may act as Small Cause Court Judge.

XII. The duties herein directed to be performed by the Clerk and Bailiffs respectively of the Court of Small Causes shall be performed, in such cases as are tried by a Judge of the Supreme Court, by such Ministerial Officers of the Supreme Court as shall be, from time to time, appointed by the said Judge of the Supreme Court for that purpose, and the persons so appointed shall have all the powers and protections by this Act given to the Clerk and Bailiffs of the Court of Small Causes respectively, and shall receive such remuneration for their services out of the fees received in the causes tried by a Judge of the Supreme Court as he shall deem reasonable, and the residue shall form part of the general fund of the Court of Small Causes.

Duties of Clerk and Bailiff in such case by whom to be performed.

XIII. There shall be a Clerk for every Court holden under this Act, whom the Judges of the Court shall appoint, subject to the approval of the Governor in Council, and may remove, subject to the like approval: if necessary, additional Clerks may be appointed with the sanction of the Governor in Council.

Appointment, removal and duties of Clerk.

XIV. The Clerk of each Court shall issue all summonses, warrants, precepts and writs of execution, and keep an account of all proceedings of the Court, and shall take charge of, and keep an account of all Court fees, and fines payable or paid into Court, and of all monies paid into and out of Court, and shall enter an account of all such fees, fines and monies in a book belonging to the Court, to be kept by him for that purpose, and shall monthly, or at such other times as shall be directed by the Governor in Council, submit his accounts to be audited or settled in such manner as the Governor in Council, from time to time, shall direct.

XV. The Judges of every such Court shall, from time to time, appoint a sufficient number of persons to be Bailiffs of the Court, not exceeding the number from time to time allowed by the Governor in Council, and may at their pleasure suspend or dismiss any Bailiff so appointed.

Do. of Bailiffs.

XVI. The Bailiffs shall attend every sitting of the Court, for such time as shall be required by the Judges, and shall serve all the summonses and orders, and execute all the warrants, precepts and writs, issued out of the Court; and shall, in the execution of their duties, conform to all such general rules as shall be, from time to time, made for regulating the proceedings of the Court.

XVII. Every Clerk, or other officer of any such Court, who shall, by himself or by any partner, or in any way, directly or indirectly, be concerned or act as Attorney, or Vakeel, or be concerned in any trade or profession on his own account, or for any other person, shall forfeit and pay the sum of Five Hundred Rupees to any person who shall sue for the same in the Supreme Court by action of debt or on the case.

Restrictions on Clerks and Officers.

Security to be given by Clerk and Bailiffs.

XVIII. The Clerk and Bailiffs shall give security for such sum, and in such manner and form, as the Governor in Council from time to time shall order, for the due performance of their several offices, and for the due accounting for and payment of all monies received by them under this Act, or which they may become liable to pay for any misbehaviour in their office.

Fees, and rules regarding them.

XIX. There shall be payable in the Courts holden under this Act the fees set forth in the annexed Schedule, beside the sum of Two Annas in the Rupee on the amount of the sum claimed, which fees shall be paid over to an account to be termed the General Fund of the Court.

XX. The ratable fee or commission shall be paid by the plaintiff before the summons issues; the other fees on every proceeding shall be paid in the first instance by the plaintiff or party on whose behalf such proceeding is to be had, on or before such proceeding: if the plaintiff recovers a less sum than he has demanded, the defendant shall not, in any case, be required to repay to him more than the fees and commission calculated upon the sum recovered. If the case is settled by agreement of the parties, before hearing, half the amount of the fees paid up to that time shall be returned to the parties by whom they have been severally paid. The Judges of the said Court may at their discretion grant summons to poor plaintiffs without deposit, or with a partial deposit of fees and commission, and also may remit costs wholly or partially to poor suitors.

XXI. The Governor in Council may, at any time, lessen the amount of the fees to be taken in the Courts holden under this Act in such manner as to him shall seem fit, and may again increase such fees, so that the scale of fees given in this Act be not in any case surpassed.

Rules may be made by Government for security of Balances with officers of Court.

XXII. The Governor in Council shall, from time to time, make such rules as to him shall seem meet for securing the balances, and other sums of money in the hands of any officers of every Court holden under this Act, and for the due accounting for and application of all such balances and other sums of money.

Holidays. Judges may sit together or apart.

XXIII. The Courts shall sit daily, except on Sundays, Christmas-day and Good Friday, and on Native or other Holidays, which the Governor in Council shall direct the Court to observe; and each of the Judges may sit apart from the others or with either of them, at the same time or at different times; and any one or two of the said Judges so sitting apart shall have all the judicial authority, which is herein given to all the Judges.

Penalty for forging seal of Court or enforcing false process.

XXIV. A Seal shall be made for every Court holden under this Act, under the direction of the Governor in Council, and all summonses and other process issuing out of the Court shall be sealed or stamped with the Seal of the Court; and every person who shall forge the Seal or any process of the Court, or who shall serve or enforce any such forged process, knowing the same to be forged, or deliver, or cause to be delivered to any person any paper falsely purporting to be a copy of any summons, or other process of the said Court, knowing the same to be false, or who shall act or profess to act under any false color or pretence of the process of the said Court, shall be guilty of felony.

Jurisdiction of Court.

XXV. All suits, where the debt or damage claimed or value of the property in dispute is not more than Five Hundred Rupees, whether on balance of account or otherwise, may be brought in the Court of Small Causes; and all such suits brought in the said Court shall be heard and determined in a summary way, and every defence which would be deemed good in the Supreme Court sitting as a Court of Equity shall be a good bar to any legal demand in the Court of Small Causes. Provided always, that the Court shall not have jurisdiction in any matter concerning the Revenue, or concerning any Act ordered or done by the Governor, or Governor-General, or any Member of the Council of India or of any Presidency, in his public capacity, or done by any person by order of the Governor-General or Governor in Council, or concerning any act ordered or done by any Judge or Judicial Officer in the execution of his office, or by any person in pursuance of any judgment or order of any Court, or any such Judge or Judicial Officer, or in any suit for libel or slander.

Form and mode of service of Summons.

XXVI. On the application of any person desirous to bring a suit under this Act, the Clerk of the Court shall issue, under the seal of the Court a summons which shall be numbered, and shall set forth the names of the plaintiff and defendant, the cause of action with such particulars as shall be, from time, directed by the Rules of the Court, and the amount sued for, and shall be served on the defendant so many days before the day on which the Court shall be holden at which the cause is to be tried as shall be directed by the rules for regulating the practice of the Court; and delivery of such summons to the defendant, or in such other manner as shall be specified in the rules of practice, shall be deemed good service; and no misnomer or inaccurate description of any person or

place in any such summons shall vitiate the same, if the person or place be therein described so as to be commonly known.

XXVII. No misstatement of the cause of action in the summons issued under this Act shall vitiate the same, and the Judges of the Court may, in their discretion, rectify such misstatement as soon as discovered, and alter the record accordingly; and if the defendant, or one of the defendants be present in Court at the time of such discovery, the hearing of the cause after the record shall have been so altered, shall be proceeded with as if no such misstatement had happened, but in the absence of the defendant or of all the defendants a new summons of the same number and date as the original summons shall be issued with the altered statement of the cause of action.

Mistatement of Cause of action not to vitiate suit. Procedure in such cases.

XXVIII. All persons shall be deemed within the jurisdiction of the Court, who dwell, or carry on their business, or work for gain within the district of the Court at the time of bringing the action, or who did so dwell or carry on their business or work therein at the time when the cause of action arose, or within six months before the time of bringing the action for causes of action which arose within the same time.

Venue.

XXIX. Any summons or other process of any of the said Courts, service of which is needed out of the district of the Court, may be exhibited in any Court of Law, or before any Magistrate, and shall be thereupon endorsed by the Magistrate or Judge of such Court; and, when so endorsed, may be served in like manner as any order or process from such Court or Magistrate; and such service shall be as valid if the same had been made by the Bailiff of the Court out of which such summons or other process shall have issued within the jurisdiction of the Court for which he acts.

Service of process out of district.

XXX. Service of any summons or other process of the Court, which shall require to be served out of the district of the Court, may be proved by affidavit, or solemn affirmation, purporting to be sworn or made before any Judge or Magistrate; and, in every case of the unavoidable absence of the Bailiff by whom any summons or other process of the Court has been served, the service of such summons or other process may be proved, if the Judges think fit, in the same manner as a summons served out of the district of the Court.

XXXI. Any minor may prosecute a suit in any Court holden under this Act for any sum of money not greater than Five Hundred Rupees, which may be due to him for wages, or piecework, or for work as a servant, in the same manner as if he were of full age.

In what cases Minor may sue.

XXXII. The jurisdiction of the Court shall extend to the recovery of any demand, not exceeding the sum of Five Hundred Rupees, which is the whole or part of the unliquidated balance of a partnership account, or the amount or part of the amount of a distributive share under an intestacy, or of any legacy under a will.

Jurisdiction to extend to balance of partnership account, or distributive share under an intestacy or to legacy.

XXXIII. Any Executor or Administrator may sue and be sued in any Court holden under this Act, in like manner as if he were a party in his own right; and judgment and execution shall be such as in the like case would the given or issued in the Supreme Court: but no Executor or Administrator shall be summoned in that capacity within six months after the death of the person, whose Executor or Administrator he is.

Power of Executor or Administrator to sue; proviso.

XXXIV. A plaintiff shall not be allowed to divide any cause of action, for the sake of bringing two or more suits in any of the said Courts; but any plaintiff, having cause of action for more than Five Hundred Rupees, may abandon the excess, which shall be entered in the record and stated in the summons, and thereupon the plaintiff shall, on proving his case, recover to an amount not exceeding Five Hundred Rupees; and the judgment of the Court shall be in full discharge of all demands in respect of such cause of action; and entry of the judgment shall be made accordingly.

Plaintiff may divide the cause of action but may abandon excess beyond Rs. 500.

XXXV. The Governor-General and Members of the Supreme Council of India, the Governors and Members of Council of the Presidencies of Fort William in Bengal, Fort St. George and Bombay, respectively, and the Chief Justice and Judges of the several Supreme Courts established therein by Royal Charter, shall not be liable to arrest or imprisonment by process issuing out of any Court holden under this Act, and no writ or process shall be sued out of the said Court against any of the persons privileged by Act I. 1844, or Act XVIII. 1848, without the consent of the Governor in Council.

Certain functionaries exempted from arrest.

XXXVI. Where any plaintiff shall have any demand recoverable under this Act, whether founded on contract or wrong, against two or more persons jointly answerable, it shall be sufficient if any of such persons be served with process, and judgment may be obtained and execution issued against the person or persons so served, notwithstanding that others jointly liable may not have been served or sued,

Service of process upon one of several jointly answerable to be good against all. In case of misjoinder Judge may order suit

to proceed against such defendants only as are answerable.

or may not be within the jurisdiction of the Court; and every such person against whom judgment shall have been obtained under this Act, and who shall have satisfied such judgment, shall be entitled to demand and recover, in the Court holden under this Act, contribution from any other person jointly liable with him; and in all cases of misjoinder of defendants, the Judges may order the suit to proceed against such of the defendants only against whom cause of action appears, and may give judgment against them only; giving also judgment for costs for the defendants improperly joined.

Questions of fact, Law or Equity, to be determined as in Supreme Court.

XXXVII. The Judges of the Court shall be empowered to determine all questions as well of fact as of law or equity, as administered in the Supreme Court, in all cases which they have authority to try.

Judge to try the case summarily on appearance.

XXXVIII. On the day in that behalf named in the summons, the plaintiff shall appear, and thereupon the defendant shall be required to appear to answer; and on answer being made in Court, the Judges shall proceed in a summary way to try the cause and give judgment, without further pleading or formal joinder of issue.

Set-off may be pleaded.

XXXIX. A defendant, having any cause of action against the plaintiff, whether or not the same exceeds Five Hundred Rupees, shall be entitled to set the same against the plaintiff's demand, and if judgment is given in such case for the plaintiff, shall be entitled to sue the plaintiff for the balance only of his original demand, after deducting the amount of debt or damages and costs recovered against him under this Act.

Judge may refer to arbitration with consent of parties.

XL. The Judges may, in any case, with the consent of both parties to the suit, order the same, with or without other matters within the jurisdiction of the Court in dispute between such parties, to be referred to arbitration, to such person or persons, and in such manner and on such terms as they shall think reasonable and just; and such reference shall not be revocable by either party, except by consent of the Judges; and the award of the Arbitrator or Arbitrators or Umpire shall be entered as the Judgment in the cause, and shall be as binding and effectual to all intents, as if given by the Judges; provided, that the Judges may, if they think fit, on application to them at the first Court held after the expiration of one week after the entry of such award, set aside any such award, or may with the consent of both parties, revoke the reference, or order another reference to be made in the manner aforesaid.

May make general rules and forms.

XLI. The Judges of each Court holden under this Act, subject to the approval of the Judges of the Supreme Court, shall have power to make and issue all the General Rules for regulating the practice and proceedings of the Court, and also to frame Forms for every proceeding in the Court for which they shall think it necessary that a form be provided, and also for keeping all books, entries and accounts to be kept by the Clerk of the Court, and, from time to time, to alter any such Rule of Form; and the Rules so made and the Forms so framed, shall be observed and used in the Court of that Presidency, and shall be sent to the Supreme Court for approval, but shall be of force until disapproved; and in any case, not expressly provided for herein, or by the said Rules, the general principles of practice in the Supreme Court may be adopted and applied, at the discretion of the Judges, to actions and proceedings in their Court.

Procedure on non-appearance of Plaintiff, or on his failure to prove his case.

XLII. If, upon the day of the return of any summons, or at any continuation or adjournment of the said Court, or of the cause for which the said summons shall have been issued, the plaintiff shall not appear, the cause shall be struck out; and if he shall appear, but shall not make proof of his demand to the satisfaction of the Court, the Judges may nonsuit the plaintiff or give judgment for the defendant; and, in either case, where the defendant shall appear and shall not admit the demand, they may award to the defendant, by way of costs and satisfaction for his trouble and attendance, such sum as they, in their discretion, shall think fit; and such sum shall be recoverable from the plaintiff by such ways and means as any debt or damage ordered to be paid by the same Court can be recovered: provided always, that if the plaintiff shall not appear when called upon, and the defendant, or some one duly authorized on his behalf, shall appear and admit the cause of action to the full amount claimed, and pay the fees payable in the first instance by the plaintiff, the Court, if it shall think fit, may proceed to give judgment, as if the plaintiff had appeared.

Do. on non-appearance of defendant.

XLIII. If on the day so named in the summons, or at any continuation or adjournment of the Court, or cause in which the summons was issued, the defendant shall not appear or sufficiently excuse his absence, or shall neglect the answer when called in Court, the judges, upon due proof of service of the summons, may issue a writ of attachment to compel the appearance of the defendant; or, in their discretion, may proceed to the hearing on trial of the cause on the part of the plaintiff only; and the judgment thereupon shall be as valid as if both

parties had attended; Provided always, that the Judges in any such case, at the same or any subsequent Court, may set aside any judgment so given in the absence of the defendant, and the execution thereupon: and may grant new trial of the cause upon such terms, as to payment of costs, giving security for debt or costs, or otherwise, as they think fit, on sufficient cause shown to them for that purpose.

Court may allow time to either party, or adjourn hearing.

XLIV. The Judges may, in any case, make orders for granting time to the plaintiff or defendant to proceed in the prosecution or defence of the suit, and also may, from time to time, adjourn any Court or the hearing or further hearing of any cause, in such manner as to them may seem fit.

Defendant may pay money into Court, and if plaintiff elect to proceed and recover no greater amount he shall pay the costs.

XLV. The defendant in any action brought under this Act for the recovery of money, whether for debt or damages, within such time as shall be directed by the rules for regulating the practice of the Court, may pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, with the costs incurred by the plaintiff up to the time of such payment; and the said sum of money shall be paid to the plaintiff; but, if he shall elect to proceed and, if the plaintiff shall recover no further sum in the action than shall have been so paid into Court, the plaintiff shall pay to the defendant the costs incurred by him in the said action after such payment; and such costs shall be settled by the Court, and an order shall thereupon be made by the Court for the payment of such costs by the plaintiff.

Examination of parties as witnesses.

XLVI. On the hearing or trial of any action or any other proceeding under this Act, the parties thereto, their wives, and all other persons, may be examined, on behalf of either the plaintiff or defendant, subject nevertheless to the Acts and Regulations in force, with respect to the examination of women of a rank and situation in life, which, according to the customs of the country, would render it improper to compel them to appear in a Court of Justice.

Examination of Witnesses. False evidence.

XLVII. Every person shall be examined on oath, or when exempt by law from taking an oath in any Court of Justice, on solemn affirmation, and every person who, in any examination upon oath or solemn affirmation under this Act, shall wilfully and corruptly give false evidence, shall be deemed guilty of perjury.

Parties may obtain Subpœnas from the Clerk.

XLVIII. Either of the parties to the suit or any other proceeding under this Act may obtain, at the office of the Clerk of the Court, summonses to witnesses, with or without a clause requiring the production of books, deeds, papers, and writings, in their possession or control, and in any such summons any number of names may be inserted.

Penalty for disobeying Subpœna, or refusing to give evidence.

XLIX. Every person, on whom any such summons shall have been served, either personally or in such other manner as shall be directed by the general rules or practice of the Court, and who shall refuse or neglect without sufficient cause to appear, or to produce any books, papers, or writings required by such summons to be produced, and also every person present in Court, who shall be required to give evidence, and who shall refuse to be swron and give evidence shall forfeit and pay such fine, not exceeding One Hundred Rupees, as the Judges shall set on him; and the whole or any part of such fine, in the discretion of the Judges, after deducting the costs, may be applied towards indemnifying the party injured by such refusal or neglect.

In what Cases warrant may issue against person.

L. The Judges of any Court established under this Act, in all suits where the debt or demand exceeds the sum of Thirty Rupees, upon proof before them that any defendant, against whom a summons has been taken out, conceals himself from or otherwise evades process of the Court, or is disposing of his property and effects with intent to defraud the plaintiff or his creditors generally, or is about to withdraw his person or effects out of the jurisdiction of the Court, may issue a warrant for the apprehension of such person, and may commit him to gaol until he shall find security for his appearance in the said Court, from time to time until judgment shall be pronounced in the suit commenced by such summons, and for payment of the amount and the costs which may be decreed against him therein.

Fine under this Act how to be enforced.

LI. Payment of any fine imposed by any Court under the authority of this Act may be enforced upon the order of the Judges, in like manner as payment of any debt adjudged in the said Court, and shall be accounted for as herein provided.

Payment of Costs how to be governed.

LII. All the costs of any action or proceeding in the Court, not herein otherwise provided for, shall be paid by or apportioned between the parties, in such manner as the Judges shall think fit; and, in default of any special direction, shall abide the event of the action; and execution may issue for the recovery of any such costs in like manner as for any debt adjudged in the said Court.

Order of Court to be final, but Judges may order nonsuit and may grant a new trial.

LIII. Every order and judgment of any Court holden under this Act, except as herein provided, shall be final and conclusive between the parties; but the Judges shall have power to nonsuit the plaintiff, in every case in which satisfactory proof shall not be given to them, entitling either the plaintiff or defendant to the judgment of the Court; and shall also in every case whatever have the power, if

they shall think fit, to order a new trial to be had, upon such terms as they shall think reasonable, and in the meantime to stay the proceedings.

Removal into Supreme Court of Cases over Rs. 100.

LIV. No cause commenced in any Court holden under this Act shall be removed from the said Court into the Supreme Court by any writ or process, unless the debt or damage or value of the property claimed exceeds One Hundred Rupees, and then only by leave of a Judge of the said Supreme Court, on proof to his satisfaction that some question of law or equity is likely to arise therein, which, by reason either of its difficulty, novelty or general importance, or of some erroneous course of decision on the same point in the Court of Small Causes, may appear to him fit to be tried in the Supreme Court, and upon such terms as to payment of costs, giving security for debt or costs, or otherwise, as he shall think fit.

Question of law may be referred to Supreme Court, and must be so referred where two Judges differ.

LV. The Judges of the Court of Small Causes may, in their discretion, reserve any question of law or equity on which they entertain doubts, or which they shall be requested by either party to the suit to reserve, for the opinion of the Judges of the Supreme Court, and shall give judgment, contingent upon the opinion of the said Supreme Court on a case, which they shall thereupon be entitled to state to the said Court. If only two Judges sit together and shall differ in opinion, the question on which they differ shall be so referred.

Court may direct payment to be by instalments.

LVI. The Judges may make orders concerning the time or times, and by what instalments, any debt or damages or costs, for which judgment shall be obtained in the said Court, shall be paid; and all such monies shall be paid into Court, unless the Judges shall otherwise order.

Execution in case of cross judgments.

LVII. If there be cross-judgments between the parties, execution shall be taken out by that party only, who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum; and satisfaction for the remainder shall be entered, as well as satisfaction on the judgment for the smaller sum; and if both sums shall be equal, satisfaction shall be entered upon both judgments.

Execution may be against either the body or goods. Police to assist Bailiff.

LVIII. Whenever the Court shall have made an order for the payment of money, the amount shall be recoverable, in case of default or failure of payment thereof forthwith, or at the time or times and in the manner directed, by execution against the body or the goods and chattels of the person against whom such order is made, without further notice or order; and the Clerk of the said Court, at the request of the person prosecuting such order, shall issue under the seal of the Court, a writ of execution to one of the Bailiffs of the Court, which shall be his warrant to take the body of such person in execution, or to levy or cause to be levied, by distress and sale of the goods and chattels of such person, such sum of money as shall be so ordered, wheresoever they may be found within the district of the Court, and also the costs of the execution; and all Constables and other Peace Officers within their several jurisdictions shall aid in the execution of every such writ.

Execution may issue forthwith in default of payment of any instalment.

LIX. If the Court shall have made any order for payment of any sum of money by instalments, execution upon such order shall not issue until after default in payment of some instalment according to such order; and execution or successive executions may then issue, without further notice or order, for the whole of the said sum of money and costs then remaining unpaid, or for such portion thereof as the Court shall order, either at the time of making the original order, or at any subsequent time, under the seal of the Court.

Imprisoment of debtor taken in execution.

LX. Whenever any warrant shall issue for taking in execution the body of any person under this Act, the Bailiffs of the Court shall be empowered, by virtue thereof, to take and convey him to any prison appointed by the Governor in Council to be the prison of the Court, there to remain for such term as shall be directed by the warrant, not longer than six calendar months, or until he shall sooner perform the order of the Court.

Execution shall not issue simultaneously against both body and goods, nor twice against the body.

LXI. No person shall be imprisoned twice under the same judgment, nor shall execution against the body and goods issue at the same time under the same judgment.

Nor till diet money for one week be deposited.

LXII. Every person suing out a warrant of execution against the body of any other person under this Act shall deposit with the Clerk of the Court, at the time of the issue of the warrant, diet money for one week, after the rate of one anna and a half for each day, which shall be paid by the Clerk to the Keeper of of the Prison at the time of the execution of the warrant.*

Creditor to deposit diet money for the first of the month of service of execution and thereafter monthly in advance.

LXIII. Notice of the execution of every such warrant shall be forthwith given to the person at whose suit it issued, who shall thereupon deposit with the Keeper of the Prison, diet money for the remainder of the month in which the

* See Act XX. 1857.

warrant is executed, after the same daily rate, and shall continue thereafter to deposit monthly with the said Keeper, in advance, diet money at the same daily rate, for each month which the debtor is liable to be kept in prison at his suit.

In default, debtor to be discharged.

LXIV. The diet money shall be employed for the subsistence of the prisoner; and if, by default of the detaining creditor, such diet money is not paid, the prisoner shall be entitled to his discharge by order of the Court.

Diet money to be charged as costs.

LXV. All diet money, which shall be spent in providing subsistence for any prisoner, shall be costs in the cause, and all diet money which shall not be so spent, shall be repaid to the creditor advancing the same.

Power of Court to discharge prisoner on his giving security.

LXVI. Whenever any prisoner shall offer good and reasonable security for payment of any debt or damage and costs, either in full or by instalments as the Court shall think reasonable, the Court may order him to be discharged on giving such security.

Prisoner to be immediately discharged on payment.

LXVII. Upon payment of the debt or damage and costs in full, the prisoner shall be entitled to be forthwith discharged.

Debtor's property to remain liable notwithstanding imprisonment.

LXVIII. If the debt or damage and costs are not paid, the imprisonment shall not extinguish the liability to pay the same; but all property then belonging to or afterwards acquired by the prisoner shall be liable to be taken in execution after his discharge from prison for satisfaction thereof or of so much thereof as is not paid, including the diet money actually expended for subsistence of the prisoner.

What may be seized in execution.

LXIX. Every Bailiff executing any process of execution issuing out of the said Court against the goods of any person, may, by virtue thereof, seize and take any of the goods of such person, (excepting the necessary wearing apparel and bedding of such person or his family, and the tools and implements of his trade,) and may also seize and take any money or Bank-notes, and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to any such person against whom any execution shall have issued as aforesaid.

Procedure in case of seizure of securities for money.

LXX. The Bailiff shall forthwith deliver any cheques, bills of exchange, promissory notes, bonds, specialties or other securities for money, which shall have been so seized or taken as aforesaid, to the Clerk or other person appointed by the Judges to receive the same, who shall hold them as a security or securities for the amount directed to be levied by such execution, or so much thereof as shall not have been otherwise levied or raised for the benefit of the plaintiff; and the plaintiff may sue in the name of the defendant, or in the name of any person in whose name the defendant might have sued, for the recovery of the sum or sums secured or made payable thereby, when the time of payment thereof shall have arrived.

Court may suspend execution, in case of defendant's sickness &c.

LXXI. If it shall at any time, appear to the satisfaction of the Court that any defendant is unable, from sickness or other sufficient cause, to pay and discharge the debt or damages recovered against him, or any instalment thereof ordered to be paid as aforesaid, the Judges, in their discretion, may suspend or stay any judgment, order or execution given, made or issued in such action, for such time and on such terms as they shall think fit, and so, from time to time, until it shall appear by the like proof as aforesaid that such temporary cause of disability has ceased.

Goods seized when to be sold.

LXXII. No sale of any goods, which shall be taken in execution as aforesaid, shall be made until after the end of five days at least next following the day on which such goods have been so taken, unless such goods be of a perishable nature, or upon the request in writing of the party whose goods have been taken.

Appraisement and sale of goods seized.

LXXIII. Until such sale the goods shall be deposited by the Bailiff by whom they were taken in some fit place, or they may remain in the custody of a fit person, approved by the Judges, to be put in possession by the Bailiff.

LXXIV. The Judges from time to time, as they shall think proper, may appoint such and so many persons for keeping possession, and so many of their Bailiffs or other fit persons to be sworn brokers and appraisers for the purpose of selling or valuing any goods, chattels or effects taken in execution under this Act, as shall appear to them to be necessary, and may direct security to be taken from each of them, for such sum and in such manner as they shall think fit, for the faithful performance of their duties, without injury or oppression; and the Judges may dismiss any person, broker or appraiser so appointed.

Goods by whom to be sold.

LXXV. No goods taken in execution under this Act shall be sold for the purpose of satisfying the warrant of execution; except by one of the brokers or appraisers so appointed.

Costs of appraisement and sale.

LXXVI. The costs to be demanded or taken for such appraisement and sale, shall be One Anna in the Rupee on the produce of the goods sold; and the Judges may apply the sum so raised as costs towards payment of the contingent charges and remuneration of the said brokers and appraisers, in such manner as shall be approved by the Governor in Council.

Account to be kept by Clerk.

LXXVII. The Clerk of the Court shall keep an account of all sums received upon such sales, distinguishing the amount paid to the party entitled to the benefit of the execution, and the amount levied and retained as costs, and also of all sums allowed to the brokers and appraisers upon such sales.

Execution of Judgement in case defendant quit Jurisdiction.

LXXVIII. Wherever any defendant, against whom judgment shall have been given in the Court of Small Causes, shall go before execution thereof out of the jurisdiction of the Court, the Judge of any Zillah or Town where he shall be found, upon receiving from the plaintiff, either in person or by vakeel, an application in writing setting forth these facts, with a duly authenticated copy of the judgment of the Court, shall execute the said judgment in the manner prescribed by law for execution of his own decrees; unless the defendant shall allege any reasonable cause why the judgment should not be executed, and shall give security to such amount as the Judge of such Zillah or Town shall deem reasonable, that he will, within such time as shall be allowed him for that purpose, either satisfy the judgment or produce a duly authenticated copy of an order of the Judges of the Court of Small Causes, discharging their former judgment.

Suspension of execution on writ of error or supersedeas when the amount exceeds Rs. 100.

LXXIX. No judgment or execution shall be stayed, delayed or reversed upon or by any writ of error or *supersedeas* thereon, to be sued for the reversing of any judgment given in any Court holden under the provisions of this Act, unless the amount recovered exceeds One Hundred Rupees, and then only after the person suing out such writ shall become bound with two sufficient sureties to be approved by the Clerk of the Court, in treble the sum adjudged to be recovered in the former judgment, to prosecute the said writ with effect, and also to satisfy and pay (if the writ be not prosecuted, or if the judgment be affirmed), the debt or damages and costs adjudged, and all costs and damages to be awarded for the delay of execution.

What to be stated on warrant. Effect of tender of amount stated before sale.

LXXX. Upon every warrant of execution issued against the goods and chattels of any person, the Clerk of the Court shall cause to be stated the sum of money and costs adjudged, with the sum paid for such warrant; and if the party against whom such execution shall be issued shall, before an actual sale of the goods and chattels, pay or cause to be paid or tendered unto the Clerk of the Court, or to the Bailiff holding the warrant of execution, such sum of money and costs as aforesaid, or such part thereof as the person entitled thereto shall agree to accept in full of his debts or damages and costs, together with the fees herein directed to be paid, the execution shall be superseded, and the goods and chattels of the said party shall be discharged and set at liberty.

Record how to be kept and authenticated. Certified copy to be evidence.

LXXXI. The Clerk of every Court holden under [illegible] cord of all summonses, and of all orders, and of all judg[illegible] Act shall cause a re-returns thereto, and of all fines, and of all other proce[illegible]nts and executions and fairly entered, from time to time, in a book or books belo[illegible]ngs of the Court, to be shall be kept at the office of the Court; and shall be [illegible]ing to the Court, which or more of the Judges; and such entries in the said bool[illegible]ly authenticated by one of bearing the seal of the Court, and purporting to be s[illegible] or books, or a copy thereof copy by the Clerk of the Court, shall be admitted in a[illegible]gned and certified as a true dence of such entries and of the proceeding referre[illegible] Courts and places as evi-and of the regularity of such proceeding, without a[illegible] to by such entry or entries, [illegible] further proof.

Periodical list to be made and published of unclaimed monies; disposal of the same if unclaimed for six years.

LXXXII. The Clerk of every such Court [illegible] each year, make out a correct list of all sums of [illegible]all, in the month of *March* in Court, which shall have been paid into C[illegible]ey belonging to suitors in the claimed for five years before the fi[illegible] which shall have remained unspecifying the names of the [illegible] day of the month of *January* then last past, so paid into Court; and [illegible]es for whom or on whose account the same were Court hours in some [illegible] such list shall be put up and remain during the Clerk's Off[illegible] part of the Court House, and at all times in such C[illegible] and all sums of money which shall have been paid into any main[illegible], to the use of any suitor or suitors thereof, and which shall have remained unclaimed for the period of six years before the passing of this Act, and [illegible] are now in the hands of any Commissioner or officer of such Court, or otherwise held in trust for such suitors, and all further sums of money, which shall hereafter be paid into such Court to the use of any suitor or suitors thereof shall, if unclaimed for the period of six years after the same shall have been so paid into Court, be applicable as part of the fees receivable on account of the Court, and shall be carried to the same account; and no person shall be entitled to claim any sum which shall have remained unclaimed for six years; but no time during which the person entitled to claim such sum shall have been an infant or married woman or of unsound mind, or out of the territories under the Government of the East India Company, shall be taken into account in estimating the said period of six years.

all wilfully insult any Judge, Clerk or Officer of , during his sitting or attendance in Court, or lings of the Court, or otherwise misbehave in ailiff or Officer of the Court, with or without the y the order of the Judges, to take such offender il the rising of the Court; and the Judges shall fit, by a warrant under their hands, and sealed mmit any such offender to any prison to which ders under this Act for any time, not exceeding any such offender a fine, not exceeding Fifty and in default of payment thereof to commit the s aforesaid, for any time not exceeding seven days, paid, or instead of inflicting summary punishment offender to be indicted in the Supreme Court, if the isdemeanour.

Penalty for contempt of Court.

ficer or Bailiff of any Court holden under this Act shall execution of his duty, or if any rescue shall be made or of any person arrested or goods levied under process of the ffending shall be liable to a fine, not exceeding One Hundred ed by order of the Court, or before a Magistrate as herein- the Bailiff of the Court or any Peace Officer in any such case er into Custody, (with or without warrant,) and bring him or Magistrate accordingly.

Do. for assault on Officer or Bailiff, or rescue of person or goods se d.

any Bailiff of the said Court, who shall be employed to execute Court, shall, by neglect, or connivance, or omission, lose an ecuting such warrant, then, upon complaint of the party ag- f such neglect, connivance or omission, (and the fact alleged satisfaction of the Court,) the Judges shall order the Bailiff to s it shall appear that the plaintiff has sustained thereby, not ex- the sum of money for which the said execution is issued, and able thereto; and upon demand made thereof, and on his re- fy the same, payment thereof shall be enforced by such herein provided for enforcing a Judgment recovered in the udice nevertheless to the execution of the original warrant.

Liabilit for neglec

Clerk, Bailiff or Officer of the Court, acting under colour ess of the said Court, shall be charged with extortion or duly paying or accounting for any money levied by him s Act, the Judges may inquire into such matter in a sum- rpose may summon and enforce the attendance of all ke manner as the attendance of witnesses in any l may make such order thereupon for the repayment for the due payment of any money so levied as yment of such damages and costs, as they shall all think fit, may impose such fine upon the Clerk, One Hundred Rupees for each offence, as they ult of payment of any money so ordered to be enforced by such ways and means as are here- recovered in the said Court.

Penalty Bailiff or extortion duct, or not d counting for levied or corru

r other Officer, employed in putting this ution, who shall wilfully and corruptly tsoever, other than his lawful salary, for his Act, or on any account whatso- all, upon proof theref before tion of the finding of the f serving, or being em- d shall also be

s or Act, rty

Procedure when goods of wrong person are seized.

all proceedings had upon such action after iss
Court of Small Causes, and the Judges of the C
dicate upon such claim and make such orde
thereof, and of the costs of the proceedings as
order shall be enforced in like manner as any
in such Court.

Powers of Act VII. 1847, extended to distresses for rent not exceeding Rs. 500.

LXXXIX. The powers of Act VII. 1847
rents in Calcutta shall be extended to the rec
exceeding Five Hundred Rupees, and the Judges
under this Act shall be empowered to exercise w
the extended powers of the said Act ; and the said
instead of Calcutta and the Settlement of Fort Wil
the jurisdiction of the Court had been therein menti
Court of Small Causes under this Act instead of
Court therein mentioned, and the amount of Five H
One Hundred Rupees, and the forms contained in the
said Act shall be altered accordingly, and shall refer to
VII. 1847.

Affida of such arre to be

XC. The affidavit of arrear required by the said Act
in every case, be made either by the person entitled to such
her lawfully constituted attorney, and a warrant of distress
affidavit.

summon lding over termination occupying eave, where nt does not s. 500.

XCI. Where any person shall hold or occupy any house
of which the value or the rent payable in respect thereof do
rate of Five Hundred Rupees by the year, without leave of the
a lease or agreement which is ended, or duly determined by
quit, and such tenant, or, if such tenant do not actually occu
occupy only a part thereof, any person by whom the same
shall be then actually occupied, shall neglect or refuse to
possession of the premises, or of such part thereof respective
agent may take out a summons from the Court directe
occupier, to show by what title he claims to hold or occu
thereof.

se of non-ap- of defendant may prove

XCII. If the tenant or occupier shall not thereupon
place appointed, and show cause to the contrary, and shall
to deliver up possession of the premises, or of such part
then in possession, to the said owner or his agent, such o
to the Court proof of the holding, and of the end or o
tenancy, if any had existed, with the time or manner
by which he claims the possession.

n proof of service Summons, Court y issue warrant of possession. Entry nder same when may be made. Warrant to protect Bailiff, but not the person suing it out.

XCIII. Upon proof of due service of the summon
fusal of the tenant or occupier, as the case may be, the
under the seal of the Court to any Bailiff of the Co
him within a period to be therein named not less
clear days from the date of such warrant, to give
owner or agent, and such warrant shall be a suff
enter upon the premises with such assistant
give possession accordingly; Provided alw
shall not be made on a *Sunday*, *G*
other day observed by the Courts as a H
hours of six in the morning and six in
herein contained shall be deemed to
rant shall be sued out of the
be brought against him b
possession, where such
said, lawful righ

Service of Summons to be personal, unless Court direct otherwise.

XC
by
wi
in

No action against Co Clerk on a want of rig son suing o

mons, by reason that the person by whom the
ful right to the possession of the premises.
the time of applying for such warrant as afore-
ssion of the premises, or of the part thereof so
said owner nor his agent, nor any other person
ned to be a trespasser, by reason merely of any
mode of proceeding for obtaining possession
t the party aggrieved may, if he think fit, bring
regularity or informality, in which the damage
y shall be especially laid, and may recover full
amage with costs of suit; Provided that, if the
proved, the defendant shall be entitled to a verdict,
ssed at any sum not exceeding Ten Rupees, the
ore costs than damages, unless the Judge, before
e been holden, shall certify that in his opinion full
d.

Where such person has lawful right to possession, irregular execution of warrant shall not be a trespass, but party aggrieved may sue for special damage.

case in which the person, by whom any such warrant shall
of Small Causes, had not, at the time of suing out the
he possession of the premises, the suing out of any such
id shall be deemed a trespass by him against the tenant or
ises, although no entry shall be made by virtue of the war-
y such tenant or occupier will become bound with two sufficient
ved by the Clerk of the Court, in such sum as to the Judges
ble, regard being had to the value of the premises and to the
ch action, to sue the person by whom such warrant was sued
without delay, and to pay all the costs of the proceeding in
a verdict shall pass for the defendant, or the plaintiff shall
osecute his action, or become nonsuit therein, execution upon
stayed until judgment shall have been given in such action
upon the trial of such action of trespass, judgment be given
udgment shall supersede the said warrant.

Suing out of warrant by p without right of p on to be a tre be-ther entry not. Exe warrant stayed by t

of the possession of any such house, land or tenement
titution of a regular suit for trying the title thereunto,
the Supreme Court as if this Act had not been passed.

d given on the removal of any action out of the Court of
aying, delaying or reversing any judgment or execution
ecution of any such warrant of possession as aforesaid,
al, or to set aside a verdict, judgment or nonsuit, shall
y to the action, and shall be approved by the Judges
of the Court; and if the bond so taken be forfeited, or
securing which such bond was given, the Judge before
be had shall not certify upon the record in Court, that
been fulfilled, the party to whom the bond shall
n action of debt and recover thereon: Provided
ch action as last aforesaid shall be brought may,
to the parties liable upon such bond as may
ule shall have the nature and effect of a de-

Bonds to b plaintiff, and attested Court. Forfei and realisation of.

ich before the passing of this Act might
here any Officer of the Court of Small
any claim to any goods and chattels
or the proceeds or value thereof
at the election of the party

Action against Officers of the S. C. Court, not being for goods seized in execution, may be brought in Supreme Court.

of this Act in the
specified, for
Act,
red
es,
n

If plaintiff brings in the Supreme Court an action which might have been brought in the S. C. Court, and obtains verdict for less than amount recoverable in latter Court, he shall recover no costs; if he obtain no defendant over full costs.

suing an offi-
S. C. Court

in the Supreme Court, and obtaining verdict for less than Rs. 500, shall recover no costs unless the Judge certifies.

Recovery of penalties, fines and forfeitures under this Act when not specially provided for.

under this Act, under color or pretence of the pro the trial of the action no greater damages shall sum of Five Hundred Rupees, no costs shall b action, unless the Judge shall certify in Court, the action was fit to be brought in the Supreme

CIII. All penalties, fines and forfeitures to be imposed, (the manner of recovering and otherwise particularly directed), upon proof be Magistrate having jurisdiction where the offender shall be committed, either by the confession of oath or affirmation of any credible witness, shall be ing the summons and conviction, by distress and of the party offending, by warrant under the hand trate, and the overplus (if any) after such penalties, charges of such distress and sale are deducted, shall unto the owner of such goods and chattels.

Detention of offender in ca of non-payment

CIV. If any such penalties, fines and forfeitures, resp forthwith upon conviction, it shall be lawful for the Justice the offender so convicted to be detained in safe custody, un iently be made to such warrant of distress; unless such sufficient security to the satisfaction of such Justice or Magis ance before him on such day as shall be appointed for the ret of distress, such day not being more than eight days from t any such security, which security the Justice or Magistrate shal take by way of recognizance or otherwise, as to him shall seem fi

tal of offen- amount of e not levied. ies how to be l credited.

CV. If upon return of such warrant it shall appear that n can be had thereupon, or in case it shall appear to the satisfa or Magistrate, either by confession of the offender or otherwi within the jurisdiction of such Justice or Magistrate sufficient whereon to levy all such penalties, for feituress' costs and charge gistrate, may, at his discretion, without issuing any warrant offender to the Common Gaol or House of Correction, for three calendar months, unless such penalties, forfeitures sonable charges attending the recovery thereof, shall be

may pro- ummons to enalties.

CVI. The monies arising from any such penalties, aforesaid, when paid and levied, shall (if not by this Act applied) be from time to time paid to the Clerk of the Co in like manner as the fees thereof.

ice may proceed mmons to reco- penalties.

CVII. In all cases in which by this Act any per recoverable before a Justice or Magistrate, he my summ complained against, and on such summons may hear a such complaint; and, on proof of the offence, may co judge him to pay the penalty or forfeiture incurred same, although no information in writing shall have b all such proceedings by summons without inform and effectual to all intents and purpose, as if a exhibited.

Form of conviction

CVIII. In all cases where any convic mitted against this Act, the form of con effect following: (that is to say,) "Be in the year A. B. a Magistrate for the IX. 1850) of having (*state th* judge the said t be committed to for the and year afore

No order, verdict. &c., to be quashed for want of form.

Want of form not to invalidate distress but party aggrived, may sue for special damages.

any

Limitatio tions.

d, and not afterwards; and notice in writing of
eof, shall be given to the defendant one calen-
mmencement of the action; and no plaintiff
if tender of sufficient amends shall have been
ght, or if, after action brought, a sufficient sum
nto Court, with costs, by or on behalf of the de-

Schedule of Fees.

Every Summons or Subpœna.		Warrant.	
Rupees.	Annas.	Rupees.	Annas.
0	2	0	2
0	4	0	4
0	8	0	8
1	0	1	0
1	4	2	0
1	8	3	0
1	12	4	0
2	0	5	0

ACT No. XI. OF 1850.

41 sec. 23.
41 sec. 24 to Ships belonging to Native Princes or States.
rig or tonnage owned by British Subjects or Native
entitled to registry or passes, may be registered.
of Registry.
h Act X. 1841.

n Act to amend Act X. 1841.

X. 1841, It is enacted as follows:
1841, is repealed.

Repeals Act X. 1841 s. 13.

r Section 24 of the said Act, may be issued for
ntages of a British Ship, in certain cases, to
minions of a Native Prince or State in su-
diary treaties with the East India Company,
ed, in the like cases and under the same
to any such Native Prince or State,
e been built.

Extends Act X. 1841, s. 24, to all Ships belonging to Native Princes or States.

nd of whatever tonnage, owned
1841, or owned by such
d to Passes under Act
sting voyages, or
lon, y be
to
in

Ships of whatever rig or tonnage owned by British Subjects or Native Princes or States, if otherwise entitled to registry or passes, may be registered.

Fees for Certificate of Registry.

ACT No. XII. OF

1. *Security to be given by Public Accounta*
2. *Security how to be regulated.*
3. *Who to be deemed a Public Accountant.*
4. *Procedure against Securities.*
5. *Regulations for recovery of land revenue*
6. *Act to have retrospective effect in certain*

For avoiding loss by the default of Public Acco
For better avoidance of loss through the default
enacted as follows:

Security to be given by Public Accountants.

I. Every Public Accountant shall give security
trusts of his office, and for the due account of all mon
his possession or control by reason of his office.

Securi w to be regul

II. In default of any Act having special reference to
Accountant, the security given shall be of such amount and
or both, and with such sureties, (regard being had to the n
shall be required by any rules made or to be made, from
authority by which each Public Accountant is appointed to
the approval of the Governor or Governor in Council of the

be deemed ccountant.

III. Every person is a Public Accountant within the m
who, by reason of any office held by him in the service
Company, is entrusted with the receipt, custody or control
securities for money, or the management of any lands belo
India Company or as Official Assignee or Trustee, or as Su
other official capacity, with the receipt, custody or control o
curities for money, or the management of any lands belongin
son or persons.

edure against es.

IV. The person or persons at the head of the offic
Accountant belongs may proceed against any such Publ
Sureties, for any loss or defalcatio in his accounts, as if
an arrear of land revenue due to Government.

gulations for re- y of land reve- to apply.

V. All Regulations and Acts now or hereafter to b
of arrears of land revenue due to Government, and for
any person wrongfully proceeded against for any suc
such changes in the forms of procedure as are necessary
to the case, to the proceedings against and by such Publ

VI. Repealed by Act XIV. of 1870.

ACT No. X

1. *Persons acting ju*
liable to be sued for ju
jurisdi on.

Persons acting judi- cially or in executi orders of Jud ers not liabl for judi

er, which he would be bound to execute, if within
ing the same.

T NO. XIX. OF 1850.

---

may bind child apprentice for 7 years, but not beyond
e of female.
nce of age.
tice may act as guardian of orphans, &c.
blic Charity may apprentice children under their charge.
rchant Marine of India, or to the master Attendant on

mmander shall be deemed the agent of the party to whom the

apprenticeship to be in writing in form A.
d by the parties, and by the Child when not less than 14 years

sposited in the office of the Chief Magistrate, or of the Registrar

y be changed or contract determined by consent.
onditions Master may assign apprentice to other Master.
gs against Master for breach of duty to apprentice.
chastisement of apprentice not to Cancel contract. Cancel-
to bar criminal proceedings against Master.
n complaints against apprentice.
contract and refund of premium on complaint of repeated

y direct how money so refunded shall be laid out.
actions against apprentices and masters.
er to determine contract. Liability of executors to refund

contract to be certified on original and office copies

led to maintenance for three months from the assets of
ontinue to serve.
determined by Bankruptcy or insolvency of master.
t the estate.
itish India amenable under this Act to the Courts of

f mofussil Magistrate.

the Binding of Apprentices.

nd especially orphans and poor children brought
rafts and employments, by which, when they
It is enacted as follows :

the age or eighteen years,
dian to learn any fit trade,
act of apprenticeship,
time when such
e, be-
the
ce

Father or Guardian may bind child apprentice for 7 years, but not beyond majority of male, or marriage of female.

Contract to be evidence of age.

Magistrate or Justice may act as guardian of orphans, etc.

nors of public
may apprentice children under their charge.

To the Merchant Marine of India or to the Master Attendant on behalf thereof.

V. Any such boy may be bound as an appre Her Majesty's subjects, being the owner of any trading from any port in the territories under t Company, which has been declared to be a regi be employed in any such ship the property British subject, and, while so employed, to be seaman.

VI. Repealed by Act XIV. of 1870.

Master or Commander shall be deemed the agent of the party to whom the child is bound.

VII. The master or commander of any ship, to the sea service shall be appointed to serve by shall be deemed the agent of such party for the pur

Contract of apprenticeship to be in writing in form A.

VIII. Every contract of apprenticeship shall to the form given in the Schedule (A) annexed to effect, which shall set forth the conditions agreed fying the age of the apprentice, the term for which he is to be taught.

To be signed by the parties, and by the Child when not less than 14 years of age.

IX. Every such contract shall be signed by the person is bound, and by the person by whom he is bound, and by he is of the age of fourteen years or more at the time of bin apprentice is bound by the Governors, Directors or Managers the signature of two of them, or of their Secretary or Officer, on behalf of the persons binding the apprentice.

To be deposited in the office of the Chief Magistrate, or of the Registrar of Shipping.

X. No such contract shall be valid unless it be execut aforesaid, nor until it has been deposited in the office of the C the place or district where it has been executed, or if the app the sea service, in the office of the person appointed under Ac registry of ships at the port where the apprentice is to begin h person in whose office any such contract is deposited shall g parties a copy thereof, certified under his hand, which cert received as evidence of the contract, without formal proof the Magistrate or Registering Officer.

Terms may be changed or contract determined by consent.

XI. The terms of service may be changed at any ticeship, or the contract may be determined, with the co the contract or their personal representatives, and with the tice if he is above the age of fourteen years ; provided, t to or the termination of the contract shall be expressed contract, with the signature of the proper parties accor Act ; and the Magistrate or Registering Officer shall th hand corresponding endorsements on the office copies, to him at the same time for that purpose.

On what conditions Master may assign apprentice to other Master.

XII. The master of any apprentice bound und consent of the person by whom he was bound, and wi prentice, if he is above the age of fourteen years, assi other person, who is willing to take him for the r and subject to the conditions thereof ; Provided t dorsement under his own hand on the contract, apprentice, and acknowledge himself bound by therein mentioned, to be performed on the part o of the other parties aforesaid shall be expresse ed by them respectively : And every s office copies of the contract un Officer according to the for

Proceedings against Master for breach of duty to apprentice.

XIII. Upon comp on behalf of any a for hi or t or o plac the r

he master but his agent, by distress and sale
aster also.

ticeship shall be cancelled, nor shall any mas-
riminal proceeding, on account of such mode-
r, given to any apprentice by his master or the
lly be given by a father to his child; and the pro-
apprenticeship to be cancelled shall not bar any
master or his agent for an assault or other offence
e, for which he would be liable to be punished, had
ther or not any proceedings be taken for cancelling

Moderate chastisement of apprentice not to cancel contract. Cancelment of contract not to bar criminal proceeding.

ade to any Magistrate, by or on behalf of the master
him under this Act, of any ill-behaviour of such ap-
ice shall have absconded, the Magistrate may issue his
uch apprentice, and may hear and determine the com-
fender by an order for keeping the offender, if a boy, in
otor's prison or other suitable place, not being a criminal
exceeding one month, of which one week be in solitary con-
n time such allowance shall be made for his subsistence by
ent as the Magistrate shall order; and, if the offender be a
n fourteen years of age, may order him to be privately whip-
der be a girl, or if in the case of any boy the Magistrate deem
nt unfit, he may pass an order empowering the master of the
gent to keep the offender in close confinement in his own house,
ssel to which he belongs, upon bread and water, or such other
be given without injury to the health of the apprentice, for a
g one month.

Procedure on complaints against apprentice.

omplaint of wilful and repeated ill-behaviour on the part of
on the demand of the master, the Magistrate may order the
ceship to be cancelled, whether or not the charge is proved;
sent of the apprentice and of his father or guardian, if the
nd such cancelling shall be with or without refund of the
emium that may have been paid to the master on binding
he Magistrate seems fit on consideration of the case; and
all be applied under the direction of the Magistrate for be-

Cancelment of contract and refund of premium on complaint of repeated mis-conduct of apprentice.

rate may order any sum recovered for behoof of the
the contract to be either laid out in binding him
herwise for his benefit, or to be paid to the person by
aid when he was bound apprentice.

Magistrate may direct how money so refunded shall be laid out.

rate shall entertain a complaint on the part of a master
er this Act, unless it be brought within one month after
se; or, if the cause of complaint arose on board ship
month after the arrival thereof at a port or place in the
gistrate shall entertain a complaint on the part of an
or the agent of his master under this Act, unless it
s after the cause of complaint arose; or if the cause
p during a voyage, within three months after the
n the said territories.

Limitation of actions against apprentices and masters.

apprentice shall die before the end of the
ship, shall be thereby determined; and
nired portion of the term of any
on the binding of the ap-
dministrators out of the
id the same; unless
the business
nths
tice
sed

Death of Master to determine contract. Liability of executors to refund balance of premium.

Offer to continue contract to be certified
n original and office
ies thereof.

tice entitled
enance for

three months from the assets of his deceased master if he continue to serve.

after the death of his master, out of the assets lef such three months such apprentice shall contin apprentice, the executors or administrators of s shall appoint.

Contract to be determined by bankruptcy or insolvency of master: premium to be a debt against the estate.

XXII. The apprentice of any person again ruptcy shall be issued, or who shall be adjudged solvency, during the apprenticeship, shall be disc the contract of apprenticeship; and, if any pren an apprentice, he or the person by whom he was the amount thereof, as a debt against the estate of

All persons in British India amenable under this Act to the Courts of the E. I. C.

XXIII. For the purposes of this Act all B whatever parents born, as well as other persons in vernment of the East India Company without the To and the Town and Island of Bombay, shall be amena Courts and Magistrates of the East India Company.

Appeal from order of mofussil Magistrate.

XXIV. An appeal shall lie from any order passed the said Towns and Island to the Court of Session to w subordinate, provided the appeal is made within one n the order.

Interpretation.

XXV. In this Act the words "master," "owner," "pe oun "he" shall be understood to include several persons, as and females as well as males, and bodies corporate as well a there is something in the context repugnant to such constructio

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SCHEDULE A.

Form of Agreement.

This Agreement made the———day of———in the ye B., of————and C. D., of————witnesseth that the said bind E. F., a boy (or girl) of the age of————years comple of the said A. B. (or otherwise describing the relation in w stand) to dwell with and serve the said C. D., as an a forth for————years (in the case of a girl add, or until t which shall first happen), during all which term the said ap faithfully serve the said C. D., according to his (or her) ski ful business, and demean and behave himself (or herself obediently, in all things toward the said C. D. and his said C. D. for himself (or herself) and his (or her) exe in consideration o ———— paid by said C. D., (the re hereby acknowle service of the said E. F. doth covenant and agree wit executors and administrators, that he (or she) will teach said E. F., in the best way and manner that he (or s employment) of a ———— during the said term; a term, find and allow unto the said apprentice good clothes, lodging, washing, and all other things ne apprentice: (and further, *here insert any special*

If there is no pvemium the words between brackets may be omitted.

In witness whereof the parties have here day and year above written.

D

. F., his (or her) apprentice, and J, K., of ———
apprenticeship, whereby the said E. F. was bound
igned and made over to the said J. K., and
himself, by personal examination of the said
ays and means, that such assignment is for the
is made with the consent of (the said E. F.,
and of) all persons whose consent thereunto by
law is required, doth allow such assignment :
and the contract of apprenticeship whereby the
said E. F. was on the———day of ———in
said C. D., as an apprentice to learn the trade (craft
—shall henceforth endure, unto the end of the said
d been originally party to the said deed, and had
ace and instead of the said C. D., and the said J. K.,
(or herself) his (or her) executors or administrators to
the said C. D., to be performed, and the said E. F. shall
to the said J. K., in like manner as he (or she) was by the
unto the said C. D.

E. F. J. K.

of the said C. D., E. F. and J. K. have hereunto set their
day and year above written.

G. H., *Magistrate.*

ACT No. XX. OF 1850.

*the boundaries of certain Zemindaries rendered cognisable
Tributary Mehals.*

the boundaries of the Tributary Mehals in Cuttack.
gle or hill zemindaries in the Zillah of Cuttack, enumera-
ulation XII. 1805, of the Bengal Code, and the Territory
me zillah, were temporarily exempted by the said Regu-
s relating to the settlement and collection of the public
n XIII. 1805, of the Bengal Code, were temporarily
nd Regulations for the maintenance of the Police and
ustice in criminal cases, and whereas doubts have been
s to the boundaries of the said zemindaries are to be
s follows :

h the boundaries between any of the said zemin-
l and Atmullick, and an estate subject to the Regula-
ll be in dispute, shall be heard, tried and determin-
uperintendent of the Tributary Mehals, in Zillah
ctions as he shall from time to time receive from
s award, when confirmed by the Governor of
and shall be carried into execution by the
possession of the land in dispute

Disputes regarding the boundaries of certain Zemindaries rendered cognisable by Superintendent of Tributory Mehals.

Whereas it is enacted by Section 9, Regulat
Code, that "whenever in any civil suit the parties
persuasions, when one party shall be of the Hind
medan persuasion : or where one or more of the
either of the Mahommedan or Hindoo persuasi
shall not be permitted to operate to deprive suc
perty to which, but for the operation of such laws
and whereas it will be beneficial to extend th
throughout the territories subject to the Governm
It is enacted as follows :

Any law or usage inflicting forfeiture of rights or property or inheritance thereto, by reason of change of religion or loss of caste declared void.

I. So much of any law or usage now in force wit
Government of the East India Company, as inflicts
rights or property, or may be held in any way to im
inheritance, by reason of his or her renouncing, or havi
communion of any religion, or being deprived of caste, s
as Law in the Courts of the East India Company, and in
by Royal Charter within the said territories.

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* ACT NO. XXIII. OF 1850.

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1. Unassessed assessable Land, in Calcutta, to be asses cottah.
2. Lakhiraj tenures held for less than 60 years not to be
3. Procedure of Collector to recover unpaid assessment
4. Amount paid by tenant may be deducted from the R
5. Claim for Land Revenue to have priority over all o
6. In case claim be disputed process to be stayed on dep
7. Arrears of Rent or Revenue not recoverable after si
8. Collector to enquire and report on claims to hold l sioner's order when final.
9. Penalty for obstruction.
10. Do. for contempt.
11. Control of Collector.
12. Ground Rents payable in Calcutta to be deemed Geo. III. c. 70.
13. Actions for trespass or injury under color of t in the Court of the 24 Pergunnahs, and within 6 montl
14. Interpretation.

An Act for securing the Land Revenue of Calc

Whereas it is expedient that the Land Revenue
Company within Calcutta, be ascertained and coll
in other parts of the territories under the Gover
It is declared and enacted as follows :

Unassessed and assessable Land, in Calcutta, to be assessed at 3 annas per cottah.

I. All assessable Lands, not
the Town of Calcutta, of whic
not heretofore been assess
Cottah.

Lakkiraj tenures held for less than 60 years not to be valid.

II. D Lakhi
has b
Lakl
or s

Procedure of Collector to recover unpaid assessments.

w

l, in the manner appointed for regulating distress
ct VII. 1847: and for the purpose of any such
shall have all the powers of a Commissioner of
bts referred to in the said Act, and the Collector
of his Officers to perform the duties of Bailiffs
Clerk of the said Court, as provided by the said
said Act relating to the said Commissioners and
apply to the said Collector and his Office in the

nt by any tenant or occupier, not holding imme-
ompany, or the seizure and sale of his property, he
payment or levy from the next payment of rent to

Amount paid by tenant may be deducted from the Rent.

East India Company for land Revenue or rent has
s upon the land, or to which property distrained upon

Claim for Land Revenue to have priority over all other claims.

or's claim for arrears of rent is disputed, the process of
l not be stayed, unless the amount claimed be lodged with

In case claim be disputed, the process to be stayed on deposit.

rent or Revenue which shall become due to the East India
Town of Calcutta, after the passing of this Act, shall be
me within six years next after the same are due, or next after
of the same in writing has been given by the person by whom
or his Agent, and not afterwards.

Arrears of Rent or Revenue not recoverable after six years.

a claim to hold Land Lakhiraj, or free of assessment, shall be set
the Collector shall inquire into the claim, taking such evidence
y offer, or the public Records supply, and shall report his
cision in the case for the consideration of the Revenue Com-
ommissioner is satisfied of the validity of the claim, he shall
dingly, and such order shall be final. If he is not satisfied of
n, he shall direct the Collector to assess the Land, leaving the
Collector's demand in the Civil Courts as herein provided.

Collector to enquire and report on claims to hold. Commissioner's order when final.

bstructing or molesting the Collector or any of his subor-
execution of their duty, shall, on conviction before a
of Calcutta, be liable to a fine not exceeding Five
default of payment to imprisonment in the Common Jail
six months, or until the fine is sooner paid.

Penalty for obstruction.

ay punish any contempt committed in his presence, in
, by fine, not exceeding Two Hundred Rupees, and in
risonment in the Common Jail for a term not exceeding
uch order of fine or imprisonment an appeal shall lie to
ecision shall be final.

Ditto for contempt.

all act in the execution of this Act under the usual
enue Authorities.

Control of Collector.

ts payable to the East India Company from lands in
the meaning of the Act of Parliament 21 Geo. III.
of Judicature established by Royal Charter at Fort
ivil jurisdiction concerning the said Ground Rents,
r done in the assessment or collection thereof.

Ground Rents payable in Calcutta to be deemed Revenue within Stat. 21, Geo. III. c. 70.

any trespass or injury committed by any Re-
his Act, or concerning any claim in respect of
Revenue Officer under this Act, or
of the East India Company
ivil Courts, established by
ty-four Pergunnahs:
such action, is
wn of
the

Actions for trespass or injury under color of this Act, to be tried only in the Court of the 24-Pergunnahs, and within 6 months of cause of action.

be

Interpretation.

* ACT No. XXV. OF

1. Repealed.
2. Forfeited deposits at sales of land to belo

An Act for the forfeiture to Government c
Sales of Land under Regulation VIII. 1819, and

Whereas Putneedars and judgment Debtors
the provisions in Section 9, Regulation VIII. 1
Section 5, Act IV. 1846, that *forfeited deposits at S*
crees or for arrears of Rent shall be applied as if th
enacted as follows:

I. Repealed by Act XIV. of 1870.

Forfeited deposits at sales of land to belong to Government.

II. Any such forfeited deposit shall be applie
ths sale, and the surplus shall be forfeited to Governme

ACT No. XXVI. OF 1850.*

1. Repealed.
2. Local Government may extend Act to any Mofussil
inhabitants of which appear to desire it.
3. Notification to be made in Government Gazette.
4. Local Government to decide after consideration of de
habitants and publish final order.
5. Act to take effect on publication of order.
6. Government to appoint Commissioners to carry the Ac
7. Rules made by Commissioners what to provide for.
8. Power of Commissioners to make contracts and to
the Act.
9. Commissioners to be liable only for wilful misappli
10. Act II. 1839 to apply to arrears of Taxes, &c., un
11. Rate not to be void for defect of form.
12. What property may be sold for arrears of Taxes.
13. Accounts to be rendered by Commissioners.
14. Power of Local Government to suspend Act
report upon its operation.

An Act to enable improvements to be ma

Whereas Act X. 1842, was passed for enablin
place of public resort or residence, under the Preside
within the Town of Calcutta, to make better provision for p
lic health and convenience, but the said Act has pro
pose, and it is expedient to amend the provisions the
powers to the inhabitants of Towns in the ot
Government of the East India Company, It is enac

I. Repealed by Act XIV. of 1870.

Local Government may extend Act to any Mofussil town or suburb, the inhabitants of which appear to desire it.

II. If it shall appear to the Governor
Lieutenant-Governor, of any Presidency or Pla
Government of the East India Company, t
Suburb not within the Town of Cal
making better provision for m
public streets, roads, drain
proving the said To
Governor in C
force

Notification to be made in Government Gazette.

th
C

Local Gove
to decide af
deration of
view of i
and pub
order.

ake a final Order, which shall be published in the
tified by proclamation within such Town or Su-
iation appears, or does not appear, to be according
either wholly, or in respect to one or more of
t it is made; and if the whole or any part of it
e wishes of the inhabitants, then that this Act
lach Town or Surburb, for such purposes only as

n
Su der shall be made and published as aforesaid, this
e n the said Town or Suburb, for such purposes as
nd the making and publication of the said Order
that the provisions of this Act have been complied
n in force within the said Town or Suburb, for such
in the Order.

Act to take effect on publication of order.

ct shall come into force in any Town or Suburb, the
Council, or Lieutenant-Governor, shall appoint the Magis-
of the inhabitants thereof as to him shall appear neces-
ners for putting the Act in force, and shall give authority to
s for more effectually accomplishing the purposes for which
which Rules, when approved by the Governor or Governor
tenant-Governor, shall be of the same force within the said
ntil altered or rescinded as hereinafter provided, as if they were
t. And the said Governor or Governor in Council, or Lieute-
ay remove any of the Commissioners and appoint others, and
cies occurring among the Commissioners in such manner as may

Government to appoint Commissioners to carry the Act into effect.

les to be prepared by the said Commissioners shall provide,
s, for those following, that is to say:
ntment and management of all necessary officers and servants
rs, and the salaries to be allowed to them.
on of the persons or property within the Town or Suburb to
e monies necessary for the purpose of this Act, whether
r Town Duties, or otherwise, the amount or rate of the
e manner of raising and collecting them, and ensuring the
tion of them when collected.
which from time to time the Rules in force are to be
and new Rules are to be made, with the approval in every
Governor in Council, or Lieutenant-Governor.
d prohibition of nuisances within the Town or Suburb.
f reasonable penalties for breach any Rule made by the
ding Fifty Rupees, or in the case of continuing nuisance,
es for every day that such nuisance is continued.

Rules made by Commissioners what to provide for.

sioners appointed from time to time shall have full power
racts for the purposes of this Act, and apply the taxes
necessary works, and in payment of their officers and
penses incident to the execution of this Act within the

Power of Commissioners to make contracts and to apply taxes under the Act.

shall be personally liable for any contract made by
of the inhabitants of such Town or Suburb; but
le for any misapplication of the monies collected,
gly party or privy, or which shall have happened
liable to be sued for the same as
ia Company.

Commissioners to be liable only for wilful misapplication of funds.

ery of fines, shall be applied
der this Act; and every
1839, for that pur-
of th officers
taxes

Act 11. 1839 to apply to arrears of Taxes, etc., under this Act.

t of
t of
all

Rate not to be void for defect of form.

Wh at property may
old for arrears of

Accounts to be rendered by Commissioners.

XIII. All Commissioners acting in execution the last day of April in every year, make up and s in Council, or Lieutenant-Governor, an account of of all sums received and spent by them in the with such vouchers as the Governor or Gover Governor, shall from time to time order.

Power of Local Government to suspend Act and appoint persons to report upon its operation.

XIV. The Governor or Governor in Coun at any time, suspend the operation of this Act in a any person or persons to examine and report upon t sioners, or any of them, or their officers in the execu

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ACT No. XXXIII. 1850.

1. Zemindar to present petition for sale of Putnee ten not to Civil Court.

2. Repealed.

3. Repealed.

An Act for amending the forms necessary for the sale of Bengal.

Whereas by Clause 2, Section 8, Regulation VIII. 1819, o it is provided that Zemindars shall be entitled in certain cases to of putnee tenures on which the right of sale for an arrear of presenting a petition to the Civil Court of the district, and Collector, and whereas the petition to the Civil Court has not vious to many of such sales, and it is not necessary for protect It is enacted as follows :

Zemindar to present petition for sale of Putnee tenures to Collector and not to Civil Court.

I. After the passing of this Act, it shall not be nec in any such case to present a petition to the Civil Court, b lector shall be sufficient.

II. Repealed by Act XIV. of 1870.

III. Repealed by Act XIV. of 1870.

ACT No. XXXIV. OF 185

1. Warrant of commitment under Reg. III preme Court or any other gaol keeper &c.

2. Reg. III. 1818, extended to every off custody.

3. Commitment of state P valid.

An Act

Whereas d under fortr pre su th

Warrant of commitment under Re III. 1818, may addressed to Suf Court or any f gaol keeper e/i

rtress, or to the Officer in charge of any gaol or
l expedient that such State Prisoner be confined
; and such warrant shall be sufficient authority
isoner in the fortress, gaol or other place men-

-the Bengal Code, shall be extended and applied,
Officer, having any State Prisoner in custody,
lained and extended by this Act.

Reg. III. 1818, extended to every officer having any State Prisoner in custody.

now confined under any such warrant within the
Supreme Courts, under the warrant of the Gover-
e deemed to have been lawfully committed there-

Commitment of state Prisoner under warrant of G. G. in C. to be valid.

ACT No. XXXVII. OF 1850.

t to cause distinct Articles of Charge to be drawn out previous
enquiry into conduct of any of its servants.
be committed either to the authority to which the accused is
ommissioners specially appointed.
t to nominate person to conduct the prosecution.
ght by accuser to be reduced to writing and verified by

t allow private accuser to prosecute, it shall require security.
y abandon prosecution to private accuser on giving

issioners regarding contempts and issue of process.
beying process.
to a copy of the charge, and list of documents and wit-

e enquiry.
arge and adjournment of enquiry.
by Commissioners on close of enquiry.
rnment on receipt of Report.
Government."
laws for suspension or dismissal of certain Uncoven-

Government to suspend or remove public servant

o the behaviour of Public Servants.
amend the law for regulating inquiries into the
movable without the sanction of Government,
roughout the territories under the Government
follows:

ion that there are good
uth of any imputation
Company not
shall
arge,
ll-

Government to cause distinct Articles of Charge to be drawn out previous to ordering public enquiry into conduct of any of its servants.

Enquiry to be committed either to the authority to which the accused is subor-inate or to Commis-ers specially ted.

rnment to person to the prose-

Charge brought by accuser to be reduced to writing and verified by oath.

V. When the charge shall be brought by require the accusation to be reduced to writing, affirmation of the accuser, and every person w make any false accusation under this Act, upon liable to the penalties of perjury: but this e prevent the Government from instituting any inq out such accusation on oath or solemn affirmatio

If Government allow private accuser to prosecute, it shall require security.

VI. Where the imputations shall have bers Government shall think fit to leave to him the Government, before appointing the Commission, sonable security that he will attend and prosecute th ually, and also will be forthcoming to answer any co may be afterwards brought against him for malici subornation of perjury, as the case may be.

Government may abandon prosecution, to private accuser on giving security.

VII. At any subsequent stage of the proceedin it think fit, abandon the prosecution, and in such case application of the accuser, allow him to continue the prose of so doing, on his furnishing such security as is hereinbefo

Power of Commissioners regarding contempts and issue of process.

VIII. The Commissioners shall have the same po tempts and obstructions to their proceedings, as is given t Courts by Act XXX. 1841, and shall have the same power of witnesses, and for compelling the production of document charge of their duty under the Commission. and shall be entitle tection as the Zillah and City Judges, except that all process, t dance of witnesses, or other compulsory process shall be executed by the Zillah or City Judge in whose jurisdiction person resides, on whom the process is to be served, and i Calcutta, Madras or Bombay, then through the Supreme there. When the Commission has been issued to a Court, persons having power to issue such process in the exe authority, they may also use all such power for the purpos

Penalty for disobeying process.

IX. All persons disobeying any lawful process, i purposes of the Commission, shall be liable to the same pe issued originally from the Court or other authority through

Accused entitled to a copy of the charge and list of documents and witnesses.

X. A copy of the Articles of Charge, and a list of nesses by which each charge is to be sustained, shall accused, at least three days before the beginning of th day of delivery, and the first day of the inquiry.

Procedure at the enquiry.

XI. At the beginning of the inquiry, the prosecut of Charge to the Commissioners, which shall be o accused shall thereupon be required to plead 'guilty them, which pleas shall be forthwith recorded with th person accused refuses, or without reasonable cause the charge, either personally or by his Counsel admit the truth of the Articles of Charge.

XII. The prosecutor shall then be entitled explanation of the Articles of Charge, and of be proved; his address shall not be recorded.

XIII. The oral and documentary exhibited: the witnesses shall be may be cross-examined shall be entitled to been cross-examin

defence shall then be exhibited, and the witnesses respectively, or affixing such su[illegible] to cross-examination and re-examination and to same shall be sued out had not b[illegible]rs, according to the like rules as the witnesses

XCVI. Where the owner, a[illegible] for the prosecution or defence, shall be examin- said, had lawful right to the pos[illegible] taking an oath in Courts of Justice, on solemn held over as aforesaid, neither th[illegible] either case by one of the Commissioners, and acting in his behalf, shall be de[illegible] wilfully giving false evidence on any material irregularity or informality in th[illegible]nd liable to the penalties of perjury. When the under the authority of this Act, [illegible]behalf of Government, the prosecutor may himself an action on the case for such [illegible] and may be examined for the defence. alleged to be sustained there[illegible]ners, or some person appointed by them, shall satisfaction for such special [illegible]ne oral evidence, which shall be read aloud to each special damage so laid be no[illegible]s given, and if necessary explained to him in the and that, if proved, but as[illegible]en, and shall be recorded with the proceedings. plaintiff shall recover no[illegible] whom the trial shall h[illegible]cused makes only an oral defence, and exhibits no costs ought to be allo[illegible]end with his defence; if he records a written defence,

XCVII. In every [illegible] prosecutor shall be entitled to a general oral reply on the be sued out of the Cou[illegible] so exhibit evidence to contradict any evidence exhibited same, lawful right to [illegible]ich case the person accused shall not be entitled to any warrant as last afore[illegible]roceedings, although such new evidence were not included in occupier of the pr[illegible]him.

Amendment of charge and adjournment of enquiry.

[illegible]e Commissioners shall be of opinion that the Articles of rant; and in case [illegible]hem, are not drawn with sufficient clearness and precision, the sureties, to be app[illegible]y, in their discretion, require the same to be amended, and shall seem reaso[illegible] the application of the person accused, adjourn the inquiry for probable cost of [illegible] The Commissioners may also, if they think fit, adjourn the out with effect an[illegible] time, on the application of either the prosecutor or the per- such action in cas[illegible] ground of the sickness or unavoidable absence of any wit- discontinue or not [illegible]able cause. When such application is made and refused, the the warrant shall [illegible] record the application, and their reasons for refusing to of trespass; and if, [illegible] for the plaintiff, such [illegible]

Report to be made by Commissioners on close of enquiry.

XCVIII. Recov[illegible]r proceedings under the Commission, and shall send with shall be no bar to the [illegible] opinion upon each of the Articles of Charge separately, which may be brough[illegible]s they think fit on the whole case.

Procedure of Government on receipt of Report.

XCIX. Every [illegible]ment, on consideration of the report of the Commission- Small Causes, or upo[illegible]ke further evidence, or give further explanation of their awarded therein, or th[illegible]ler additional Articles of Charge to be framed, in which or on moving for a new [illegible] truth of such additional Articles shall be made in the be made to the other [illegible] directed with respect to the original charges. When and attested under the s[illegible]ve been appointed, the Government may also, if it thinks if, upon the proceeding [illegible] Commissioners to the Court or other authority to which whom such proceeding s[illegible]ordinate, for their opinion on the case; and will finally the condition of the bond [illegible] appear just and consistent with its powers in such have been so made may br[illegible]

Interpretation of "Government."

always, that the Court in wh[illegible]ernment' as used in this Act means the Governor- by a rule of Court, give such [illegible]rnor or Deputy Governor of the Presidency of appear to it reasonable, and [illegible]overnor in Council of the Presidencies of Fort feasance [illegible] such bond. [illegible]ely, and the Lieutenant-Governor of the North-

Nor the power of Government to suspend or remove public servant without enquiry.

C[illegible]XXVI[illegible]ions and proce[illegible] sanction is necessary for the removal of the Act or any of the p[illegible] Supre[illegible] exact, take or accept any fee [illegible] any thing done or to be done by virtue o[illegible] to affect the authority of ever, relative to putting this Act into executio[illegible] for any cause, with- the said Court, and in the case of a Clerk, on co[illegible] Court by the Governor in Council, be for ever incapabl[illegible] ployed under this Act in any office of profit or emolument, a[illegible] liable for damages as therein provided.

LXXXVIII. If any claim shall be made to, or in respect of any [illegible] chattels taken in execution under the process of any Court holden under th[illegible] or in respect of the proceeds or value thereof, by any person not being the p[illegible] against whom such process has issued, the Clerk of the Court, upon applicat[illegible] of the Officer charged with the execution of such process, as well before as afte[illegible] any action brought against such Officer, may issue a summons calling before the said Court, as well the party issuing such process as the party making such claim, and thereupon any action, which shall have been brought in the Supreme Court in respect of such claim, shall be stayed, and any Judge of the Supreme Court on proof of the issue of such summons, and that the goods and chattels were so taken in execution, may order the party bringing such action to pay the costs of

An Act for consolidating the Board of Cust
Sudder Board of Revenue in the lower Provinces.

Whereas by Regulation IV. 1819, of the F
in the Customs, Salt and Opium Department v
Bengal, with all the duties, powers and authoritie
respect to customs and Town duties, and with th
the Board of Trade in the Salt and Opium De
now necessary that this Board should be continu
Revenue in the Lower Provinces of Bengal, It is e

I. Repealed by Act XIV. of 1870.

Transfers to the Sudder Board of Revenue powers, &c. of Board of Revenue in Customs, Salt and Opium Department.

II. All powers and duties now vested in, or be
nue in the Customs, Salt and Opium Department, an
be transferred to the Sudder Board of Revenue const
vinces according to Regulation I. 1829, of the Bengal
tively : and all Acts and Regulations now in force re
Salt and Opium Board of Revenue, or its officers, shall
as if the said Sudder Board of Revenue and its officers
mentioned therein instead of the said Board of Custom
its officers.

Sudder Board of Revenue how to be styled.

III. The said Sudder Board of Revenue shall be hence
of Revenue for the Lower Provinces of the Presidency of For

ACT No. XLV. OF 1850.

1. Coroners inquests on bodies lying dead within their
whether the cause of death arose therein or not.

Act to declare the law as to the jurisdiction of Coroner

For removal of doubts as to the jurisdiction of Coro
enacted as follows ;

Coroners inquests on bodies lying dead within their jurisdiction to be valid whether the cause of death arose therein or not.

I. In all cases in which an inquest ought to be ho
dead within the jurisdiction of any Coroner appointed
territories under the Government of the East India Com
jurisdiction where the body is lying dead has powe
such inquest : and every such inquisition taken before h
the cause of death arose within his jurisdiction.

No. VIII. OF 1851.

l,
order Tolls to be levied on public and appoint Toll Col-

Collectors on non-payment of Tolls.
id for Troops etc., on march or Police on duty.
to assist Toll Collectors.
authorised demand or extortion of Tolls,
s and penalties to be put up near Toll-gate.
of Tolls.

bling Government to levy Tolls on Public Roads and Bridges.
expedient to enable Government to levy Tolls upon Roads and
ted as follows :
y Act XIV. of 1870.

rnor of the Presidency of Fort William in Bengal, the Lieuten- North-Western Provinces of Bengal, the Governor of the St. George in Council, and the Governor of the Presidency ncil, may cause such rates of Toll, not exceeding the rates chedule annexed to this Act, as they respectively think fit, to d or bridge which has been, or shall hereafter be made or of the Government, and may place the collection of such ment of such persons as may appear to them proper : and the management and collection of Tolls shall be liable ties, as would belong to them if employed in the collection

Government may order Tolls to be levied on public and appoint Toll Collectors.

n-payment of any such Toll on demand the Officers me may seize any of the carriages or animals on which t of their burden of sufficient value to defray the Toll ; discharged for twenty-four hours, with the cost arising ase shall be brought before the Officer appointed to of the said Toll, who may sell the property seized for all expenses occasioned by such non-payment, seizure ance that may remain to be returned, on demand, rty ; and the said Officer, on receipt of the property, e that, at noon of the next day, exclusive of Sunday or sell the property by auction. Provided that, if, at any actually begun, the person whose property has been amount of all the expenses incurred, and of double the aid O r shall forthwith release the property seized.

Procedure of Toll Collectors on non-payment of tolls.

passage of Troops and Military Stores ficers on duty, or of any person or from payment of the Tolls

No Toll to be paid for Troops etc., on march or Police on duty.

ll Collectors, when the same

Police Officers to assist Toll Collectors.

nder for

Penalty for unauthorised demand or extortion of Toll.

red
s

Table of Tolls and penalties to be put up near Toll-gate.

VII. A Table of the Tolls authorized to b
tion shall be put up in a conspicuous place near su
or printed in English words and figures, and als
guage of the district, to which shall be annexed,
a statement of the penalties for refusing to pay
lawful Toll.

Application of Tolls. Recites Stat. 14 and 15, Vict. C. 40.

VIII. The Tolls, levied under this Act, shall
the net proceeds thereof shall be applied wholl
maintenance of roads and bridges, within the Presid

ACT No. V. OF 1852.

5, Vict. C. 40.
n to Marriage Registrar by one of the parties to every
the above statute.
d, and copy entered in the Marriage Notice Book. Book to be
out fee.
Notice.
n case of Minors.
hen minor is resident in one of the Presidency Towns.
ficate.
arty is a Native Christian, the Marriage Registrar to ascer-
nd Certificate are understood.
f Certificate may be forbidden.
r doubt authority of person forbidding, he may refer to the
Zillah Judge or the G. G. in C. as the case may be.
sal of Certificate by Registrar in an allied Native State either
the G. G in C.
es when to be solemenized.
lemnising Marriage to ascertain that Native Christians under-
ns.
Notice, Certificate, Translations, or Hours not required in suit
arriage.
Marriage Registrar and others in certain cases.
n allied Natives States to transmit Certificates to the Foreign

perjury attached to false oath or declaration or forbiddal.
hen to be commenced.
and fees of Marriage Registrars in allied Native States.
egistrars in Presidency Towns.
be Marriage Registrar in case of temporary vacancy in

and Certificate.
alsification of Registrar Book, or giving of false Certi-

ccidental errors within one month.
tend to Marriages by persons in holy orders, or under 58,
een persons professing Jewish religion,
ired for Petitions under Section 5.

effect to the provisions of an Act of Parliament, passed in
ign of Her present Majesty, entituled " An Act for

the Session of Parliament holden in the Four-
Her present Majesty, entituled, " An
g other things) that it should be
m time to time, by laws
f the said Act of Parlia-
law required in
of India in
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tice to be given
rriage Registers
of the parties

to every intended Marriage under the above.

annexed, or to the like effect, to any Marriage R
which the parties shall have dwelt for not less than
or, if the parties dwell in different Districts, shall gi
age Registrar of each District, and shall state the
and the profession or condition of each of the p
dwelling place of each of them, and the time, not bei
which each has dwelt therein, and the Church, Chape
the Marriage is to be solemnized ; Provided that, if eit
the place stated in the Notice during more than one
stated therein that he or she hath dwelt there one month

Notice to be filed, and copy entered in the Marriage Notice Book. Book to be open to inspection without fee.

II. The Marriage Registrar shall file all such Notic
the Records of his office, and shall also forthwith ente
Notices fairly into a book, to be for that purpose furnished
ment, to be called the "Marriage notice Book," and the
shall be open, at all reasonable times, without Fee, to all pers
ting the same.

Publication of notice.

III. The Marriage Registrars or Registrar of all Distri
tories in India shall respectively publish all such Notices of
respective Districts, by causing a copy of such Notices to be
picuous place in their respective offices, or, where such Regis
the Christian Religion, ordained or otherwise set apart to th
Christian Religion, such Notices shall be affixed in some co
the Church or Chapel or place of worship in which such Min
officiate. When one of the parties intending Marriage (not b
widower) is under twenty-one years of age, every Marriage Reg
twenty-four hours after the receipt by him of the Notice of suc
or cause to be sent, by the Post or otherwise, a copy of su
other Marriage Registrars (if any) in the same District, who shal
same in some conspicuous place in their own offices or Chapels

Of certificate in case of Minors.

IV. Where, by the oath or declaration required by the
said Act of Parliament, it appears that one of the parties in
being a widow or widower) is under twenty-one years of age,
shall not issue his Certificate under the provisions of the seco
Act of Parliament, until the expiration of fourteen days after
of Marriage.

Special case when minor is resident in one of the Presidency Towns.

V. When one of the parties intending Marriage (not be
is under twenty-one years of age, and both parties inten
time resident in any of the Towns of Calcutta, Madras
sirous of being married in less than fourteen days after t
aforesaid, it shall be competent for both parties intend
petition to the Supreme Court of such Towns, or any jud
upon the Marriage Registrar to whom the Notice of M
directing him to issue his Certificate at some time before t
fourteen days required by Section 4, of this Act. And it s
said Supreme Court, or any judge thereof. on sufficient ca
or his discretion, to make an order upon such Marriage R
issue the Certificate, at any time to be mentioned in th
expiration of the said fourteen days required by Section 4
Registrar, on receipt of the said order, shall proceed to
accordance therewith.

Form of Certificate.

VI. The Certificate to be issued
sions of the second Section of the sai
Schedule B. to this Act anne
Presidency or place shall
of forms of Certificat

When either party is a Native Christian, the Marriage Registrar to ascertain that the Notice and Certificate are understood.

VII. Wh
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How issue of
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or her name and place of abode, and his or her character, in respect of either of the parties, by reason of which he or she is so authorized, and the said word "forbidden," so written and subscribed as aforesaid, shall be deemed a protest, within the meaning of the seventh Section of the said Act of Parliament.

If Registrar doubt authority of person forbidding, he may refer to the Supreme Court, the Zillah Judge or the G. G. in C. as the case may be.

IX. In all cases where a Marriage Registrar, acting under the provisions of the fourth Section of the said Act of Parliament, shall not be satisfied that the person forbidding the issue of the Certificate is authorized by law so to do, the said Marriage Registrar shall apply by petition, which may in all cases be on unstamped paper, where the district of such Registrar is within any of the Towns of Calcutta, Madras, and Bombay, to the Supreme Court of Judicature in the Presidency or place within which such district is comprised, or if such district be not within any of the said Towns, then to the Judge of the Zillah or District within which the same is comprised, and the said petition shall state all the circumstances of the case, and pray for the order and direction of the Court concerning the same, and the said Supreme Court, or any Judge thereof, or such Judge of the Zillah or District, shall be empowered to examine into the allegations of the petition and the circumstances of the case in a summary way, and if upon such examination it shall appear that the person forbidding the issue of such Certificate is not authorized by law so to do, such Supreme Court, or any Judge thereof, or such Judge of the Zillah or District, shall declare that the person forbidding the issue of such Certificate is not authorized as aforesaid, and then and in such case such Certificate shall be issued, and the like proceedings may be had under the said Act of Parliament in relation to such Marriage as if the issue of such Certificate had not been forbidden by such person. And in all cases where a Marriage Registrar, appointed to act within the territories of any Native Prince or State in alliance with the East India Company acting under the provisions of the sixth Section of the said Act of Parliament, shall not be satisfied that the person forbidding the issue of the Certificate is not authorized by law so to do, the said Marriage Registrar shall transmit a statement of all the circumstances of the case, together with all documents and papers relating thereto, to the Governor-General of India in Council, and if it shall appear to the said Governor-General of India in Council that the person forbidding the issue of such Certificate is not authorized by law so to do, the said Governor-General of India in Council shall declare that the party forbidding the issue of such Certificate is not authorized as aforesaid, and then and in such case such Certificate shall be issued, and the like proceedings may be had under the said Act of Parliament in relation to such Marriage, as if the issue of such Certificate had not been forbidden by such person.

On refusal of Certificate by Registrar in an allied Native State either party may petition the G. G. in C.

X. In all cases whatsoever, where a Marriage Registrar resident in the territories of any Native Prince or State in alliance with the East India Company has refused to issue his Certificate, it shall be lawful for either of the parties intending Marriage to apply by Petition to the Governor-General of India in Council and the said Governor-General of India in Council shall be empowered to examine the allegations of the Petition in a summary way, and shall decide thereon, and the decision of the said Governor-General of India in Council shall be final, and the Marriage Registrar, to whom the application was originally made, shall proceed in accordance therewith.

Marriages when to be solemnized.

XI. Every Marriage solemnized under the provisions of the said Act of Parliament shall be so solemnized between the hours of six in the morning and seven in the evening.

Person solemnising Marriage to ascertain that Native Christians understand the declarations.

XII. When any Native Christian is married under the provisions of the said Act of Parliament, the party solemnizing the said Marriage shall ascertain whether such Native Christian understands the English language, and if he does not, the party solemnizing the said Marriage shall, at the time of the solemnization thereof translate, or cause to be translated, to such Native Christian, in the language of such Native Christian, both the declarations made at such Marriage in pursuance of Section 2 of the said Act of Parliament.

Proof of Notice, Certificate, Translations, or Hours not required in suit as to validity of Marriage.

XIII. After any Marriage has been solemnized under the said Act of Parliament, it shall not be necessary, in support of such Marriage, to give any proof in respect of the Notice of Marriage, of the Certificate, or the translation thereof respectively, or in respect of the hours between which any Marriage may be solemnized, or in respect to the said translations of the said declarations in Section 9 of the said Act of Parliament contained, nor shall any evidence be given to prove the contrary in any suit touching the validity of such Marriage.

Penalty on Marriage Registrar and others in certain cases.

XIV. Every Marriage Registrar who shall knowingly and wilfully issue any Certificate for Marriage after the expiration of three Calendar months after the Notice shall have been entered by him as aforesaid, or who shall knowingly and wilfully issue, without the order of a competent Court authorizing him so to do, any Certificate for Marriage, where one of the parties intending Marriage (not being

a widower or widow) is under twenty-one years of age, before the expiration of fourteen days after the entry of such Notice, or any Certificate, the issue of which shall have been forbidden as aforesaid by any person authorized to forbid the issue thereof, shall be guilty of felony. And every person who shall knowingly and wilfully solemnize any Marriage under the provisions of the said Act of Parliament in the absence of a Registrar of the District in which such Marriage is solemnized, or who shall knowingly and wilfully solemnize any Marriage, where one of the parties to such Marriage (not being a widower or widow) is under twenty-one years of age, within fourteen days after the entry of the Notice of Marriage, no order for the issue of a Certificate in less than fourteen days having been made by a competent Court, shall be guilty of felony.

Registrars in allied Native States to transmit Certificates to the Foreign Secretary.

XV. The Marriage Registrars in the territories of any Native Prince or State in alliance with the East India Company shall transmit the Certificates mentioned and referred to in the twelfth Section of the said Act of Parliament to the Secretary for the Foreign Department of the Government of India.

Penalties of perjury attached to false oath or declaration or forbiddal.

XVI. Every person who shall knowingly and wilfully make any false oath or declaration, or sign any false Notice or Certificate, required by the said Act of Parliament or this Act, for the purpose of procuring any Marriage, and every person who shall forbid the issue of a Marriage Registrar's Certificate, by falsely representing himself or herself to be a person whose consent to such Marriage is required by law, knowing such representation to be false, shall, on conviction, suffer the penalties of Perjury.

Prosecution when to be commenced.

XVII. Every prosecution under this Act shall be commenced within the space of two years after the offence committed.

Appointment and fees of Marriage Registrars in allied Native States.

XVIII. The Governor-General of India in Council may appoint any Covenanted or Uncovenanted Servant of the Company, being a Christian, or any Minister of the Christian religion, ordained or otherwise set apart to the Ministry of the Christian religion according to the usage of the persuasion to which he may belong, to be a Marriage Registrar in any District, to be assigned by the Governor-General of India in Council, in any place within the territories of any Native Prince or State in alliance with the East India Company: and the said Marriage Registrar shall be entitled to receive the following fees; that is to say, for receiving each Notice of Marriage, one rupee, for publishing each notice of Marriage two rupees, for the issuing of each Certificate, five rupees, for every Marriage forbidden or Protest entered, ten rupees, and for registering each Marriage, three rupees; and all such fees shall be accounted for and paid over by the Marriage Registrar to the Government Treasury as in the said Act of Parliament mentioned. Provided always, that in any case in which it shall appear to the satisfaction of the Marriage Registrar, that the parties intending Marriage, or Married, under the provisions of the said Act of Parliment, are in indigent circumstances, it shall and may be lawful for the said Marriage Registrar, in his discretion, to remit some part, but not more than three-fourths, of the said fees respectively, and in each and every such case of remission of fees, the Marriage Registrar shall report the circumstances thereof, and the grounds on which the remission is made, for the information of the Governor-General of India in Council.

Salaries of Registrars in Presidency Towns.

XIX. It shall be lawful for the Government of each Presidency or [illegible] to pay any one Marriage Registrar of Calcutta, Madras and Bombay, or of [illegible] other District where a considerable number of persons likely to avail themselves of this Act are resident, such salary as they shall think fit, not exceeding the sum of Co.'s Rs. fifty per month.

Magistrate to be Marriage Registrar in case of temporary vacancy in the office.

XX. When there is only one Marriage Registrar in a District, and such Registrar is absent from such District, or ill, or in case of the death of the only Marriage Registrar in a District or of any temporary vacancy in such office, the Magistrate of such District shall act as, and be, Marriage Registrar thereof, during such absence, illness, or temporary vacancy as aforesaid.

Fees for search and Certificate.

XIX. Every Marriage Registrar, or other person who shall have the custody for the time being of the Register of Marriages under this Act, shall at all reasonable times allow searches to be made of any Register Book in his custody, and shall give a copy, certified under his hand, of any entry or entries in the same, on the payment of the fees hereinafter mentioned (that is to say,) for every search extending over a period of not more than one year, the sum of one rupee, and four annas additional for every additional year, and the sum of one rupee for every single Certificate, and all such fees shall be accounted for and paid over by the Marriage Registrar to the Government Treasury.

Destruction or falsification of Registrar Book, or giving of false Certificate, to be felony.

XXII. Every person who shall wilfully destroy or injure, or cause to be destroyed or injured, any such Register Book, or the counterfoil Certificates thereof, or any part or certified copy thereof, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, any part of such Register Book, or of such

counterfoil Certificates, or of certified copies thereof, or shall wilfully insert or cause to be inserted, in any Register Book or counterfoil copy or certified copy thereof, any false entry of any Marriage, or shall wilfully give any false Certificate, or shall certify any writing to be a copy or extract of any Register Book, or counterfoil copy thereof, knowing the same Register Book or counterfoil copy to be false in any part thereof, shall be guilty of felony.

Correction of accidental errors within one month.

XXIII. Any person charged with the duty of registering any marriage, who shall discover any error to have been committed in the form or substance of any such entry, may, within one calendar month next after the discovery of such error, in the presence of the parties married, or in case of their death or absence, in the presence of two other credible witnesses, who shall respectively attest the same, correct the erroneous entry according to the truth of the case, by entry in the margin without any alteration of the original entry, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made, and he shall make the like marginal entry, attested in the like manner, in the counterfoil Certificate thereof, to be made by him as in the said Act of Parliament mentioned, and in case such counterfoil Certificate shall have been already transmitted to the Secretary of Government of the Presidency or place within which he resides, he shall make and transmit in like manner a separate counterfoil Certificate of the original erroneous entry, and of the marginal correction therein made.

Act not to extend to Marriages by persons in holy orders, or under 58, Geo. III. c. 84, or between persons professing Jewish Religion.

XXIV. Nothing in this Act contained shall be construed to extend to the Registration of Marriages which may be solemnized in India by persons in Holy Orders, or under the provisions of the Act of the 58th year of King George the Third, Chapter 84, or to the Registration of any Marriage solemnized between any two persons professing the Jewish religion, and nothing herein contained shall affect the right of any Officiating Minister to receive the fees now usually paid for the performance or registration of any marriage.

No stamp required for petitions under Section 5.

XXV. All petitions, presented in pursuance of Section 5 of the said Act of Parliament, may be so presented on unstamped paper.

XXVI. Repealed by Act XIV. of 1870.

SCHEDULE (A.)

NOTICE OF MARRIAGE.

To *Mr. John Cox*, a Registrar of the District of *Calcutta* in *Bengal*.

I hereby give you Notice, that a Marriage is intended to be had, within three Calendar Months from the date hereof, between me and the other party herein named and described.

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, place of worship, or building in which Marriage is to be solemnized.	District in which the other party resides, when the Parties dwell in different Districts.
James Smith.	*Widower.*	*Carpenter.*	*Of Full Age.*	*16, Clive Street.*	*23 Days.*	*Union Chapel Dhurrumtollah.*	
Martha Green.	*Spinster.*	.....	*Minor.*	*20, Hastings' Street.*	*More than a Month.*		

Witness my Hand this Sixth Day of May, One Thousand Eight Hundred and Fifty-two.

(Signed) *James Smith.*

(*The Italics* in the Schedule to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the Parties lives in another District.)

SCHEDULE (B.)

REGISTRAR'S CERTIFICATE.

I, *John Cox*, a Registrar of the District of *Calcutta* in *Bengal*, do hereby Certify, that on the *6th* day of *May*, Notice was duly entered in my Marriage Notice Book of the said District of the Marriage intended between the parties therein named and described, delivered under the Hand of *James Smith* one of the Parties, (that is to say,)

Name.	Condition.	Rank or Profession.	Age.	Dwelling Place.	Length of Residence.	Church, Chapel, place of worship, or building in which the Marriage is to be solemnized.	District in which the other Party dwells when the Parties dwell in different Districts.
James. Smith.	*Widower.*	*Carpenter.*	*Of Full Age.*	*16, Clive Street.*	*23 Days.*	*Union Chapel, Dhurrumtollah.*	
Martha Green.	*Spinster.*	.....	*Minor.*	*20, Hastings' Street.*	*More than a Month.*		

Date of Notice entered *6th May 1852.*
Date of Certificate given *20th May* 1852.

The Issue of this Certificate has not been forbidden by any Person authorized to forbid the issue thereof.

Witness my Hand this *Twentieth* Day of *May, One Thousand Eight Hundred and Fifty-two.*

(Signed) *John Cox*, Registrar.

This Certificate will be void unless the Marriage is solemnized on or before the *6th* day of *August* 1852.

(The *Italics* in the Schedule to be filled up as the case may be, and the blank division thereof is only to be filled up when one of the Parties lives in another District.)

ACT No. VIII. OF 1852.

1. Sudder Courts to make tables of fees to be charged for execution by Sheriff of process of Mofussil Courts.

2. Fees to be approved by the Local Government.

3. Account of fees to be kept.

4. Amount of fees to be accounted for and paid to sheriff by Government half yearly.

5. Government may compound with sheriff for monthly payment in lieu of fees.

6. Sheriff entitled to two and half per cent. on levy besides above fees.

7. *Fees for execution against the person to be those fixed by Sudder Court.*
8. *Sheriff liable to action for damages, only in case of escape.*

An Act for remunerating the Sheriffs of Calcutta, Madras, and Bombay for the execution of Mofussil process under Act XXIII. of 1841.

For making better provision for the Sheriffs of Calcutta, Madras, and Bombay, in remuneration for the execution of legal process issued by Courts out of the said towns respectively, It is enacted as follows :

Sudder Courts to make tables of fees to be charged for execution by Sheriff of process of Mofussil Courts.

I. The several Sudder Courts of the Presidency of Fort William in Bengal, and the Sudder Courts of the Madras and Bombay Presidencies respectively, shall make, and from time to time amend, a Table of reasonable fees, to be taken on account of the execution by the Sheriff in such Presidency of any legal process issued by any Court, Judge, or Magistrate, beyond the jurisdiction of the several Supreme Courts established by Royal Charter in Calcutta, Madras, and Bombay, and of the sums to be allowed for costs of advertisements or other notifications of sales of property, according to the amount of the decrees to be satisfied by such sales,—which fees and sums shall be payable by the party applying for the process before it is sent to the Sheriff for execution, and shall be deemed costs in the cause.

Fees to be approved by the Local Government.

II. The said Table of fees and sums, when made or amended as aforesaid, shall be submitted by the Sudder Court of the Lower Provinces of the Presidency of Fort William to the Governor of Bengal, and by the Sudder Court of the North-Western Provinces of the said Presidency to the Lieutenant-Governor of those Provinces, and by the Sudder Courts of Madras and Bombay respectively to the Governor in Council of the Presidencies in which such Courts respectively have jurisdiction, for his approval; and the said Table of fees and sums shall have full force and effect, and the fees and sums therein mentioned may be lawfully demanded and taken, from and after the approval thereof by the said Governor, Lieutenant-Governor, or Governor in Council, as the case may be.

Account of fees to be kept.

III. Every such Court, Judge, and Magistrate, issuing process as aforesaid, shall cause a separate account to be kept of the amount of all fees and sums so paid, and shall from time to time, as directed by Government, cause the amount thereof to be paid into the local Treasury.

Amount of fees to be accounted for and paid to Sheriff by Government half yearly.

IV. The Government of each of the Presidencies and Provinces aforesaid shall twice in each year account for and pay over to the Sheriff, for the time being, the amount for fees and sums so paid, after deducting all necessary expenses of receiving and keeping account thereof, and remitting the nett proceeds thereof to Calcutta, Madras, or Bombay, as the case may be ; or, where the amount has accrued in the shrievalty of more than one sheriff, shall apportion the sum paid accordingly between the sheriff for the time being, and the then late Sheriff.

Government may compound with Sheriff for monthly payment in lieu of fees.

V. The said Governments respectively may compound with the Sheriff for a monthly payment to be made to him instead of such fees and sums, and during such composition may appropriate the said fees and sums to the purposes of Government.

Sheriff entitled to two and half per cent. on levy besides above fees.

VI. Over and above such fees and sums, or any such monthly payment received instead of such fees and sums, the Sheriff shall be entitled to a fee after the rate of Two Rupees Eight Annas for each Hundred Rupees of the value of any goods or property taken and sold by him in execution of any process issued by any Court, Judge, or Magistrate beyond the local jurisdiction of the said Supreme Courts, which fee shall be taken to cover all expenses connected with the seizure and sale, except the expense of advertisements.

Fees for execution against the person to be those fixed by Sudder Court.

VII. No fee estimated upon the amount of the sum for which any person is taken in execution, shall be payable to the Sheriffs of Calcutta, Madras, or Bombay, or any of their Bailiffs for taking the body of any person in execution on any process issued by any Court, Judge, or Magistrate out of the local jurisdiction of the said Supreme Courts respectively ; but instead thereof, such fees shall be payable to the Sheriff for taking the body of any person in execution of any such process as shall be settled, from time to time, by the Sudder Court as aforesaid.

Sheriff liable to action for damages only in case of escape.

VIII. If any person taken in execution on any such process shall escape out of the legal custody of the Sheriff, the Sheriff shall not be liable to an action of debt for such escape, but shall be liable only to an action upon the case for damages in consequence of such escape sustained by the person or persons at whose suit the prisoner was taken.

*ACT No. XV. OF 1852.

1. Repealed.

2. Repealed.

3. No witness to be compelled to criminate himself, or husband and wife to give evidence for or against each other.

4. Repealed.

5. Act not to affect Act XXV. 1838.

6. Court may on application compel parties to allow inspection and copies of documents, whenever discovery might be obtained in equity.

7. Certain Acts of State, judicial proceedings and legal documents, how provable.

8. Register of Vessels and Certificates of Registry how admissible, and of what effect.

9. Conviction or acquittal of prisoner may be proved by Certificate of the Clerk of the court.

10. Books and documents of a public nature how provable.

11. Repealed.

12. Courts, Commissioners, arbitrators, &c., empowered to administer Oaths.

13. Forgery of seal, stamp or signature of any document mentioned herein, or knowingly uttering the same, punishable by 7 years' transportation, or 3 years, imprisonment. Power of Court to impound the document.

14. Repealed.

An Act to amend the law of Evidence.

Whereas it is expedient to amend the law of Evidence in divers particulars, It is hereby enacted as follows:

No witness to be compelled to criminate himself, or husband and wife to give evidence for or against each other.

III. But nothing herein contained shall render any person, who in any criminal proceeding is charged with the commision of any indictable offence, or any offence punishable on summary conviction, competent or compellable to give evidence for or against himself or herself, or shall render any person compellable to answer any question tending to criminate himself or herself, or shall in any criminal proceeding render any husband competent or compellable to give evidence for or against his wife, or any wife competent or compellable to give evidence for or against her husband.

Act not to affect Act XXV. 1838.

V. Nothing herein contained shall repeal any provision contained in Act XXV. of 1838.

Court may on application compel parties to allow inspection and copies of documents, whenever discovery might be obtained in equity.

VI. Whenever any action or other legal preceeding shall henceforth be pending in any of Her Majesty's Courts, such Court and each of the Judges thereof may respectively, on application made for such purpose by either of the litigants, compel the opposite party to allow the party making the application to inspect all documents in the custody or under the control of such opposite party relating to such action or other legal proceedings, and, if necessary, to take examined copies of the same, or to procure the same to be duly stamped, in all cases in which, previous to the passing of this Act, a discovery might have been obtained by filing a bill, or by any other proceeding in a Court of Equity at the instance of the party so making application as aforesaid to the said Court or Judge.

Certain Acts of State, judicial proceedings and legal documents, how provable.

VII. All Proclamations, Treaties, and other Acts of State of any Foreign State, or the East India Company, or of any territory under the government of the East India Company, or of any British Colony, and all judgments, decrees, orders, and other judicial proceedings of any Court of Justice in any Foreign State, or in any of the territories under the government of the East India Company, or in any British Colony, and all affidavits, pleadings, and other legal documents filed or deposited in any such Court, may be proved in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, either by examined copies, or by copies authenticated as hereinafter mentioned; that is to say, if the document sought to be proved be a Proclamation, Treaty, or other Act of State, the authenticated copy to be admissible in evidence must purport to be sealed with the Seal of the Foreign State, or of the East India Company, or of the territory under the government of the East India Company, or of the British Colony to which the original document belongs; and if the document sought to be proved be a judgment, decree, order, or other judicial proceeding of any Foreign or Colonial Court, or of any Court *without* the territories

* Sections 1, 2, 4, and 11 repealed entirely and section 13 in part by Act VIII. 1868.

under the government of the East India Company, or an affidavit, pleading, or other legal document filed or deposited in any such Court, the authenticated copy to be admissible in evidence must purport either to be sealed with the Seal of the Foreign or Colonial Court, or Court *within* the Territories under the Government of the East India Company to which the original document belongs, or in the event of such Court having no Seal, to be signed by the Judge, or if there be more than one Judge, by any one of the Judges of the said Court, and such Judge shall attach to his signature a statement in writing on the copy that the Court whereof he is a Judge has no Seal; but if any of the aforesaid authenticated copies shall purport to be sealed or signed as hereinbefore respectively directed, the same shall respectively be admitted in evidence in every case in which the original document could have been received in evidence, without any proof of the Seal, where a Seal is necessary, or of the signature, or of the truth of the statement attached thereto, where such signature and statement are necessary, or of the judicial character of the person appearing to have made such signature and statement.

Register of Vessels and Certificates of Registry how admissible and of what effect.

VIII. Every Register of a Vessel kept under Act X. of 1841, or under any of the Acts of Parliament relating to the registry of British Vessels, may be proved in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, either by the production of the original, or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the person having the charge of the original, and which person is hereby required to furnish such certified copy to any person applying at a reasonable time for the same, upon payment of the sum of one Rupee; and every such Register, or such copy of a Register, and also every Certificate of Registry granted under the said Act or any of the Acts of Parliament relating to the registry of British Vessels, and purporting to be signed as required by law, shall be received in evidence in any of Her Majesty's Courts of Justice, or before any person having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, as *primâ facie* proof of all matters contained or recited in such Register, when, the Register, or such copy thereof as aforesaid, is produced, and of all the matters contained or recited in or endorsed on such Certificate of Registry, when the said Certificate is produced.

Conviction or acquittal of prisoner may be proved by certificate of the Clerk of the court.

IX. Whenever in any proceeding whatever it may be necessary to prove the trial and conviction or acquittal of any person charged with any indictable offence, it shall not be necessary to produce the record of the conviction or acquittal of such person, or a copy thereof, but it shall be sufficient that it be certified, or purport to be certified, under the hand of the Clerk of the Court or other Officer having the custody of the records of the Court where such conviction or acquittal took place, or by the Deputy of such Clerk or other Officer, that the paper produced is a copy of the record of the indictment, trial, conviction, and Judgment or acquittal, as the case may be, omitting the formal parts thereof.

Books and documents of a public nature how provable.

X. Whenever any book or other document is of such a public nature as to be admissible in evidence on its mere production from the proper custody, and no Statute or Act exists which renders its contents provable by means of a copy, any copy thereof, or extract thereof, shall be admissible in evidence in any of Her Majesty's Courts of Justice, or before any person now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence as aforesaid, provided it be proved to be an examined copy or extract, or provided it purports to be signed and certified as a true copy or extract by the Officer to whose custody the original is entrusted, and which Officer is hereby required to furnish such certified copy or extract to any person applying at a reasonable time for the same, upon payment of a reasonable sum for the same, not exceeding four annas for every folio of ninety words.

Courts, Commissioners, arbitrators, etc., empowered to administer Oaths.

XII. All Her Majesty's Courts within the British Territories under the Government of the East India Company, and every Judge and Justice of such Courts, and every Officer, Commissioner, Arbitrator, or other person, now or hereafter having, by law or by consent of parties, authority to hear, receive, and examine evidence with respect to or concerning any suit, action, or other proceeding in any of such Courts, is hereby empowered to administer an oath to all such witnesses as are legally called before them respectively.

Forgery of seal, stamp or signature of any document mentioned herein, or knowingly uttering the same punishable by 7 year's transportation

XIII. If any person shall forge the seal, stamp, or signature of any document in this Act mentioned or referred to, or shall tender in evidence any such document with a false or counterfeit seal, stamp, or signature thereto, knowing the same to be false or counterfeit, he shall be guilty of felony, and shall upon conviction be liable to transportation for seven years, or to imprisonment for any term not exceeding three years, nor less than one year, with hard labor; and whenever

or 3 years' imprisonment. Power of Court to impound the document.

any such document shall have been admitted in evidence by virtue of this Act, the Court, or the person who shall have admitted the same, may, at the request of any party against whom the same is so admitted in evidence, direct that the same shall be impounded and be kept in the custody of some Officer of the Court or other proper person, for such period and subject to such conditions, as to the said Court or person shall seem meet ; and every person who shall be charged with committing any felony under this Act may be dealt with, indicted, tried and, if convicted, sentenced, and his offence may be laid and charged to have been committed in the place in which he shall be apprehended or be in custody ; and every accessary before or after the fact to any such offence may be dealt with, indicted, tried, and, if convicted, sentenced, and his offence may be laid and charged to have been committed in any place in which the principal offender may be tried.*

XIV. This Act shall come into operation from and after the tenth day of April, One thousand eight hundred and fifty-two.

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†ACT No. XXV. OF 1852.

An Act for the execution of decrees made in appeal by Her Majesty in Council, or by the Courts of Sudder Dewanny Adawlut and of the Zillah and City Judges in the Presidency of Fort William in Bengal.

Whereas it is expedient to amend the law relating to the execution of decrees made and passed in appeal by Her Majesty in Council, and by the Courts of Sudder Dewanny Adawlut and of the Zillah and City Judges in the Presidency of Fort William in Bengal, It is hereby enacted as follows:

Decree made on appeal to be executed on petition of party desire enforcing to the same by Court which passed the first order.

I. Every decree or order in appeal of Her Majesty in Council, or any Court of Sudder Dewanny Adawlut, or of any Zillah or City Judge which shall be made after the passing of this Act, and also every such decree or order in appeal which has been made before passing of this Act, and for the execution or enforcement whereof no petition has been presented, shall be enforced and executed by the Court which made the first decree or order appealed from, in the manner and according to the rules and laws applicable to the execution and enforcement of original decrees or orders made by such last mentioned Court.

II. Any party desirous of enforcing or obtaining execution of any such decree or order, made in appeal as aforesaid, shall present a petition for that purpose to the Court which made the first decree or order appealed from, and such petition shall be accompanied by a certified copy of the decree or order made in appeal, and sought to be enforced or executed.

Appeal to lie against order relating to execution of decree made on appeal.

III. An Appeal shall lie from any decree or order made by such last mentioned Court, relating to the enforcement or execution of any such decree or order made in appeal as aforesaid, in the same manner and subject to the same laws, rules and regulations as an appeal from an order or decree, made upon a petition for the enforcement of execution of the decree or order first appealed from, would have been.

Sudder Court may, notwithstanding, order execution on orders of Privy Council.

IV. Nothing herein contained shall be construed so as to prevent any Court of Sudder Dewanny Adawlut from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court of Sudder Dewanny Adawlut to enforce or execute the same.

* Act XXV. 1837, Sec. 8 to apply.

V. The provisions of Section 8, Act XXV. 1837 of the Bengal Code shall extend to proceedings under this Act.

Act to apply to Lower Provinces only.

VI. This Act shall apply only to the Presidency of Fort William in Bengal.

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* So much of this Section as creates a felony and declares the punishment and provides for the trial of the principal and accessary is repealed by Act VIII. 1868.

† Repealed by Act X. 1861, except as regards the execution of decrees made in appeal by Her Majesty in Council.

ACT No. XXX. OF 1852.

1. *Who may petition for Naturalization.*
2. *Petition what to contain.*
3. 4. *Government how to proceed thereon.*
5. *Certificate to be delivered to memorialist, and duplicate filed.*
6. *Government may cancel certificate, if memorial contained false statement.*
7. *Fees for Certificate, &c., to be fixed by Government.*
8. *Effect of Certificate.*
9. *Certificate not to affect jurisdiction of Mofussil Courts nor to give jurisdiction to Supreme Courts.*
10. *Oath to be taken by Memorialist.*
11. *Oaths by whom to be administered and certificate given.*
12. *Interpretation of "Government" and "Magistrate."*
13. *Do. of "Oath" and "Affidavit."*

An Act for the Naturalization of Aliens.

Whereas it is expedient to provide for the Naturalization of Aliens resident in the territories under the Government of the East India Company, It is enacted as follows :

I. Any person, whilst actually residing in any part of the territories under the Government of the East India Company, may present a memorial to Government, praying that the privileges of Naturalization may be conferred upon him. Who may petition for Naturalization.

II. Such memorial shall state, to the best of the knowledge and belief of the memorialist, his age, place of birth, place of residence, profession, trade or occupation, the length of time during which he has resided within the said territories, that he is settled in the said territories or is residing within the same with intent to settle therein, and any other particulars which the Government may require to be stated therein, and such memorial shall be in writing and signed by the memorialist, and accompanied by an affidavit sworn by him, verifying the truth of the statements contained therein. Petition what to contain.

III. The memorial shall be considered by the Government to whom it shall be presented, who shall inquire into the circumstances of the case, and may require such evidence either by affidavit or otherwise as they may deem proper, in addition to the before-mentioned affidavit of the memorialist, to prove the truth of the statements contained in such memorial. Government how to proceed thereon.

IV. The Government may, if they shall think fit, issue a Certificate in writing, reciting such of the contents of the memorial as they may consider to be true and material, and granting to the memorialist all the rights, privileges and capacities of Naturalization under this Act, except such rights, privileges or capacities, if any, as may be especially excepted in such certificate.

V. The Certificate shall be delivered to the memorialist ; and a copy or duplicate thereof, together with the memorial upon which the same shall be obtained, and any Affidavit, which may accompany such memorial or be produced in support thereof, shall be filed by the Secretary to the Government, or such other officer as the Government may direct ; and such Secretary or officer shall keep an alphabetical list of all persons who may be naturalized by such Government. Certificate to be delivered to memorialist, and duplicate filed.

VI. If any material statement contained in such memorial shall be false, the Government may, if they think fit, by an order in writing, declare the Certificate issued upon such memorial to be null and void to all intents and purposes, except such purposes, if any, as may be specially excepted in such order ; and from and after such order all the rights, privileges and capacities derived through such Certificate shall cease to exist. Government may cancel Certificate if memorial contained false statement.

VII. Such fees shall be payable in respect of the proceedings hereby authorized as shall be fixed by the Government. Fees for Certificate, &c., to be fixed by Government.

VIII. Upon obtaining such Certificate, and taking and subscribing the oath as hereinafter prescribed, the memorialist shall, within the said territories under the Government of the East India Company, be deemed a natural born subject of Her Majesty as if he had been born within the territories, and shall be entitled within the said territories to all the rights, privileges and capacities of a subject of Her Majesty born within the said territories, except such rights, privileges and capacities, if any, as may be specially excepted in such Certificate. Effect of Certificate.

IX. Nothing in this Act contained shall be construed so as to deprive the Courts of the East India Company of jurisdiction over any such naturalized person, or to give to the Courts of Her Majesty any jurisdiction over any such person not otherwise subject to such jurisdiction. Certificate not to affect jurisdiction of Mofussil Courts, nor to give jurisdiction to Supreme Courts.

Oath to be taken by Memorialist.

X. Within sixty days from the day of the date of such Certificate, the memorialist named in such certificate shall take and subscribe the oath contained in the Schedule annexed to this Act.

Oaths by whom to be adminstered and Certificate given.

XI. Such oath, as well as any other oath or affidavit required by this Act, may be administered by any Magistrate or Justice of the Peace within the limits of his jurisdiction, or by any other person to be appointed for that purpose by Government, and the person who shall administer the oath mentioned in the Schedule to this Act annexed shall grant to the memorialist a Certificate in writing of his having taken and subscribed such oath, and of the date of his taking and subscribing the same, and shall forward to the Government the oath so taken and subscribed together with a duplicate of such certificate, which oath and duplicate certificate shall be filed and kept with the memorial.

Interpretation of "Government" and "Magistrate."

XII. The word "Government" in this Act shall be deemed to mean the person or persons for the time being lawfully entitled to administer the executive Government in that part of the said territories in which the memorialist shall reside at the time of presenting such memorial. The word "Magistrate" shall include any person lawfully exercising the powers of a Magistrate, and words denoting the masculine gender shall include the feminine.

Do. of "Oath" and "Affidavit."

XIII. In every case in which the word "oath" or "affidavit" is used in this Act, an affirmation to the same effect as the oath or affidavit required shall be sufficient in cases where the person required to make such oath or affidavit shall be a person allowed by law to affirm in civil cases, and in every such case such affirmation shall be made before the person authorized to administer the oath, and, the word "oath" or affidavit wherever used in this Act shall include such affirmation.

SCHEDULE.

OATH.

I, A. B., of *(here state the description of the party)* do swear *(or being one of the persons allowed by law to affirm in civil cases, do affirm.)* that I will be faithful and bear true allegiance to the Sovereign of the United Kingdom of Great Britain and Ireland, and of these territories as dependent thereon, and that I will be true and faithful to the East India Company.

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*ACT No. XXXIII. OF 1852.

1. *When decree cannot be enforced within jurisdiction of Court making it it may be enforced under this Act at any place within the territories of the E. I. C.*

2. *Court to grant copy of judgment and of order for execution, on application.*

3. *Judge to be described and Court named in certificate.*

4. *Judgment of inferior Court how to be authenticated.*

5. *Copies &c., to be transmitted to and filed in principal Court of the district where execution is required.*

6. *Judgment when filed, to have the same effect as that of the Court itself.*

7. *And to be enforced according to the same practice.*

8. *Act to extend to decrees of Military Courts of Requests; proviso. Decree of Military Court of Requests how to be authenticated.*

9. *No stamp required for Petition for execution of decree of Moonsiff or Military Court of Requests.*

10. *Usual appeal to lie.*

11. *Interpretation "judgment," "party," &c.*

An Act to facilitate the enforcement of judgments in places beyond the jurisdiction of the Courts pronouncing the same.

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* Repealed by Act X. 1861, except as regards execution of Judgment by Courts established by Royal Charter, and execution of decrees of Military Courts of Requests. As regards judgments by Supreme Courts. Act XXXIV. of 1855 is to be read with and taken as part of this Act

I. Every party, who shall have obtained a judgment in any Court of Her Majesty, or of the East India Company, in any part of the territories under the Government of the East India Company, or in any Court established by the authority of the Governor-General of India in Council in the territory of any Foreign Prince or State, who shall be unable to enforce or obtain satisfaction of the same by execution within the jurisdiction of such Court, may enforce or obtain execution of the same in any part of the said territories under the Government of the East India Company in manner following.

When decree cannot be enforced within jurisdiction of Court making it, it may be enforced under this act at any place within the territories of the E. I. C.

II. The party may apply to the Court, which shall have pronounced such judgment, for a copy thereof, and also for a certificate that satisfaction of such judgment has not been obtained by execution within the jurisdiction of the said Court, also for a copy of any order for execution of such judgment that may have been passed and, if necessary, for a translation of the said judgment and order for execution into the English language. The Court, unless there be any sufficient reason to the contrary, shall cause such copy and certificate, and translation if necessary, to be furnished, and the same shall be signed by the judge, or one of the judges of the Court, and sealed with the seal of the Court.

Court to grant copy of judgment and of order for execution of application.

III. If such Court shall be the principal Civil Court of original Jurisdiction in the district, the judge shall describe himself accordingly in the certificate, and shall also name the Court and the district.

Judge to be described and Court named in certificate.

IV. If the Court shall not be the principal Civil Court of original jurisdiction in the district, the copy of the judgment and of the order for execution, if any, the certificate of the judge, and the translation, if any, shall without delay be transmitted to the principal Civil Court of original jurisdiction in the district, and the judge or one of the judges of such Court shall issue a certificate under his hand and the seal of the Court, verifying the signature of the judge of the Court in which the judgment shall have been given to the documents above-mentioned; and in such certificate the judge signing the same shall describe himself as the judge, or one of the judges of the principal Civil Court of the district, and shall also name the Court and the district.

Judgment of inferior Court how to be authenticated.

V. All copies, translations, and certificates, which may be furnished by, or transmitted to the principal Civil Court of original jurisdiction in the district in which such judgment shall have been given shall be transmitted by such Court without delay to the principal Civil Court of original jurisdiction in the district in which the party may wish to have the judgment enforced or executed, and, if such last-mentioned Court be the Supreme Court of Judicature of either of the Presidencies, to the Prothonotary of the Court; and such Court shall cause the said documents to be filed therein without any proof of the judgment or order for execution, or of the copies thereof or of the translations, if any, or of the seal or jurisdiction of any Court, or of the signature of any judge, unless the Court to which such documents shall be transmitted shall, under any peculiar circumstances to be specified in an order, require the same.

Copies &c., to be transmitted to and filed in principal Court of the district where execution is required.

VI. The copy of any judgment or of any order for execution, when filed in the Court to which it shall be transmitted for the purpose of being executed or enforced as aforesaid, shall for such purpose have the same effect as a judgment or order for execution made by such Court, and may be enforced or executed by such Court, or any Court subordinate thereto, to which it may intrust the enforcement or execution thereof.

Judgment when filed, to have the same effect as that of the Court itself.

VII. When application shall be made to any of the said Courts to enforce or execute the judgment of any other Court as aforesaid, the Court, to which the application shall be made or referred, shall proceed to enforce or execute the same, according to its own rules and mode of procedure in like cases; and the last-mentioned Court shall take cognizance of, and punish, all wrongful acts or irregularities done or committed in enforcing and executing such judgment; and all persons disobeying or obstructing the enforcement or execution of any such judgment shall be punishable by such last-mentioned Court, in the same manner as if the said judgment had been pronounced by such Court.

And to be enforced according to the same practice.

VIII. The decrees, of which execution is to be general, of any Military Courts of Requests holden within the said territories under the Government of the East India Company, or mentioned in Section 17, Act No. XI. 1841, may be enforced in the manner provided by this Act. No such decree, however, shall be enforced under this Act against the person of the debtor, if a soldier. In the case of a decree of a Military Court of Requests the copy decree, and certificate, and translation, if any, shall be signed by the officer Commanding the station or cantonment, who shall describe himself accordingly; and no proof of the decree, or of the signature or appointment of such Officer, or of the jurisdiction of the Court, shall be necessary, unless the Court to which the same may be presented

Act to extend to decrees of Military Courts of Requests; proviso. Decree of Military Court of Requests how to be authenticated.

shall think fit, under any peculiar circumstances to be specified in an order, to require the same.

No stamp required for Petition for execution of decree of Moonsiff or Military Court of Requests.

IX. A petition for execution under this act of any judgment of a Moonsiff's Court, or of any decree of a Military Court of Requests, may be written on plain paper.

Usual appeal to lie.

X. An appeal shall lie from any order for the enforcement or execution of a judgment under this Act, in the same manner, and subject to the same rules and regulations, as if the judgment had been originally given by the Court making such order.

Interpretation "Judgment," "party," etc.

XI. In this Act the word "Judgment" means a judgment in a civil suit or proceeding, and includes any final decree or order in a civil suit or proceeding. The word "party" shall include any person who would be entitled to maintain a suit upon the judgment. The masculine gender shall include the feminine, and the singular number shall include the plural.

ACT No. XXXV. OF 1852.

1. From 1st May, 1853, Poll Tax abolished.
2. Assessment of dwelling-houses and payment thereof.
3. Procedure in case of non-payment.
4. Demand how to be made.
5. Power of entry to measure.
6. Power to have a number affixed to dwelling house. Penalty for removing the same.
7. Tenant may deduct amount of assessment from rent.
8. Power of Commissioner to exempt buildings from assessment.
9. Immaterial error not to invalidate assessment.
10. Appeal to lie to Commissioner.
11. Boundaries of towns of Akyab and Kyouk Phyoo.

An Act for the abolition of the Poll Tax within the towns of Akyab and Kyouk Phyoo, in the Province of Arracan, and for levying a tax on lands covered by dwelling-houses within those towns.

Whereas it is expedient to abolish the poll tax now levied within the towns of Akyab and Kyouk Phyoo, in the province of Arracan, and instead thereof to levy a tax upon land covered by dwelling-houses within the said towns; It is enacted as follows:

From 1st May, 1853, Poll Tax abolished.

I. After the first day of May, 1853, the levy of a poll tax, within the towns of Akyab and Kyouk Phyoo in the province of Arracan, shall cease.

Assessment of dwelling-houses and payment of.

II. After the said first day of May, 1853, a Principal Assistant of the district in which the same shall be situate, shall, from time to time as he shall think fit, assess every dwelling-house within the aforesaid towns of Akyab and Kyouk Phyoo, respectively, at the rate of one pie and a half for every square cubit of land covered by such dwelling-house; the length of the cubit being estimated at eighteen inches: the amount of the said assessment shall be payable every year by the owner or occupier of such dwelling-house, by equal half-yearly payments to be made in advance.

Procedure in case of non-payment.

III. In case of non-payment of the amount assessed upon any dwelling-house within eight days after the same shall have been demanded as hereinafter mentioned, it shall be lawful for a Principal Assistant of the district in which such dwelling-house shall be situate, to cause such amount, or so much thereof as shall remain unpaid, together with a reasonable sum for costs, to be levied by distress and sale of the goods and chattels, to whomsoever belonging, found in such dwelling-house, or upon the goods or chattels of the owner thereof, wheresoever they may be found within the said towns, respectively; or the owner of the said dwelling-house may be sued for the amount: Provided, that no distress shall be made upon the goods and chattels of any person, other than the owner of the dwelling-house, for more than the arrears of assessment for the preceding year.

Demand how to be made.

IV. The demand above referred to shall be made in manner following:—A written demand, signed by a Principal Assistant of the district, or some officer

authorized by him in that behalf, identifying the dwelling house, and specifying the amount claimed, the dimensions of the land covered by the dwelling-house and the period in respect of which the amount is claimed, shall be delivered by the officer appointed to collect the same to the tenant, or occupier of the said dwelling-house, or in case the demand cannot be delivered to such tenant or occupier, or there be no tenant or occupier, the same may be fixed to some conspicuous part of the dwelling-house.

Power of entry to measure.

V. It shall be lawful for a Principal Assistant of the district in which any such dwelling-house shall be situate, or any officer who may be authorized so to do, by writing, signed by such Principal Assistant, at any reasonable time in the day time, to enter into such dwelling-house, or any land adjoining thereto, in order to measure or ascertain the extent of land covered by such dwelling-house.

Power to have a number affixed to dwelling-house. Penalty for removing the same.

VI. It shall be lawful for a Principal Assistant of the district, in which any dwelling-house liable to be assessed under this Act shall be situate, to cause a number to be painted on or affixed to such dwelling-house, for the better identifying the same; and if any person shall wilfully remove, obliterate, or destroy such number, he shall be punishable by the Principal Assistant, or a Magistrate, or any officer lawfully having the powers of a Magistrate, by a fine, not exceeding Twenty Rupees for every such offence, and in case of non-payment thereof, by imprisonment for any term not exceeding fifteen days.

Tenant may deduct amount of assessment from rent.

VII. In case the amount of the said assessment, or any part thereof, shall be paid by any tenant, or the same be levied by seizure and sale of his goods and chattels, such tenant may deduct the amount of the payment or levy from the rent then due, or thereafter to become due, to his landlord; and such deduction shall be equivalent to payment of that amount; and the owner of any dwelling-house shall indemnify any person whose goods may be distrained for any assessment thereon, or who may pay such assessment in order to avoid a distress or sale of his goods for such assessment.

Power of Commissioner to exempt buildings from assessment.

VIII. The Commissioner of Arracan may, at his discretion, exempt any building from assessment.

Immaterial error no to invalidate assessment.

IX. No assessment made under the authority of this Act shall be impeached or affected by reason of any mistake in the name of any person liable to assessment, or of any thing chargeable with assessment, provided the directions of this Act be in substance and effect complied with; and no assessment nor proceedings, nor other matter or thing had or done under this Act shall be removed by *certiorari*, or quashed, or set aside, for want of form or error of procedure in any Court of Justice, but only on the merits.

Appeal to lie to Commissioner.

X. An appeal shall lie to the Commissioner of Arracan by any one who shall feel aggrieved by anything done under this Act.

Boundaries of towns of Akyab and Ayouk Phyoo.

XI. For the purposes of this Act, the following shall be the boundaries of the towns of Akyab and Kyouk Phyoo, *viz.*:

The boundaries of Akyab—to the north, the Charoogya creek; to the west, the said creek and a road running west and south until it joins the Bund called Morton's Bund, which leads down to the sea shore; to the south, the sea; to the east, the Akyab river and harbour.

The boundaries of Kyouk Phyoo—to the north, the sea; to the east, Oon Khyoung or Salt Golah creek; to the west, the Cantonments; to the south, Kulabadong Lands, Kangyeendan village, and Nga Tsoung's Grant.

ACT No. II. OF 1853

1. Birth or descent, not to exempt any one from any charge, assessment or duty of a public nature.

2. All persons to be subject to same laws as natives, for non-payment of public charge or breach of public duty.

An Act to remove doubts as to the liability of all subjects of Her Majesty to the same jurisdictions as Natives in respect of public and Police duties and public charges incident to the holders of land or their local Agents or Managers.

Whereas, by virtue of Act No. IV. 1837, it is lawful for any subject of Her Majesty to acquire and hold in perpetuity, or for any term of years, property in land or in any emoluments issuing out of land, in any part of the territories under the Government of the East India Company : and whereas doubts have arisen whether all subjects of Her Majesty, acquiring or holding property in land or in any emoluments issuing out of land, or acting as local Agents or Managers of such property, are subject to the same jurisdictions as Natives, for enforcing the discharge of public and Police duties incident to the holding of such property, or for the enforcement of public charges and assessments upon or in respect thereof ; and whereas it is just and reasonable that all persons who may think fit to hold such property, or to be the local Agents or Managers thereof, should be liable to the public burthens and duties incident thereto, and, in case of neglect or refusal to discharge the same, should be subject to the same jurisdictions as Natives ; It is therefore declared and enacted as follows :

Birth or descent not to exempt any one from any charge, assessment or duty of a public nature.

I. No person whatever, being the owner, holder, or farmer of any property in land, or in any emoluments issuing out of land, in any part of the said territories, whether in perpetuity or for a term, or being a local Agent or Manager of any such property, is by reason of his place of birth, or by reason of his descent, exempt from any public charge or assessment, or from any duty connected with the Police, or with the Salt or Opium Revenue, or from any duty whatsoever of a public nature, to which he would otherwise be subject, as the owner or holder of such property, or as a local Agent or Manager thereof.

All persons to be subject to same laws as natives, for non-payment of charge or breach of public duty.

II. For the non-payment of any such public charge or assessment, or for the breach of any such duty as aforesaid, or for any neglect or misconduct in the discharge thereof, every person, whatever may have been his place of birth or his descent, shall be subject to be same laws, regulations, and procedure, and to the same jurisdictions, as if he were a Native of the said territories.

ACT No. VI. OF 1853.

An Act relating to Summary Suits for Arrear of Rent, to sales of Putnee Talooks and other saleable tenures, and to sales of land in satisfaction of Summary Decrees for rent.

Whereas, by Regulation VIII. 1831 of the Bengal Code, the hearing and decision of Summary Suits or claims relating to arrears or exactions of rents were transferred from the Judges of the Zillah or City Courts to the Collectors of Land Revenue of the several districts ; and whereas, by Regulation VII. 1832, of the Bengal Code, the conduct of sales of Putnee Talooks and other saleable tenures under Regulations VIII. 1819, and I. 1820 of the same Code, and the performance of other acts preparatory to or connected with such sales, were transferred to the Collector or Deputy Collector of Land Revenue, or Head Assistant to the Collector or Deputy Collector, subject to an appeal as therein provided ; and whereas by Act VIII. 1835, the power theretofore vested in the Judges of the Dewanny Adawlut of selling land in satisfaction of Summary Decrees for rent was transferred to the Collectors of Land Revenue, and it was enacted that all sales for the recovery of arrears of rent held under Clause 7, Section 15, Regulation VII. 1799, should be conducted by the Collector, his Deputy

or duly authorized Assistant, and that ten days' notice should be given of such sales by advertisement to be stuck up at the Cutcherry of the Zillah Court or local Adawlut, and that of the Collector; and whereas it is expedient that Act XXV. 1850, and Section 9, Regulation VIII. 1819, of the Bengal Code, as modified by Clause 1, Section 16, Regulation VII. 1832 of the same Code, and as altered by the said Act XXV. 1850, should be extended to sales under Act VIII. 1835; and whereas doubts may be entertained as to who ought to exercise the jurisdiction transferred by the above-mentioned Regulations and Acts, where lands situate within the zillah or other district of one Collector form part of an entire estate, paying revenue to the Collector of another zillah or district: In order therefore to avoid such doubts, and also to define who are the proper Officers to exercise such jurisdictions in cases where lands are situate in a district assigned to an independent Deputy Collector, and also in cases where lands, held in Putnee or other tenure at one entire rent, are situate in two or more Collectorates and to prevent any such decision or sale already made from being held invalid upon the ground of its having been made by an Officer of a wrong district; It is enacted as follows:

Sale of lands to be conducted and summary suits tried by Collector in whose Collectorate the greater party thereof is situate.

I. If the lands which may be the subject of any such sale, or to the rent of which any such suit may relate, be all situate in one Collectorate the Collector of such Collectorate is the Collector to conduct the sale or to hear and decide the suit. If one Talook or tenure shall comprise lands situate in two or more Collectorates, or if any lands situate in two or more Collectorates be held under one lease or engagement or at one entire rent, the Collector in whose Collectorate the greater part of such lands shall be situate, is the Collector to conduct the sale of such Talook, or tenure, or of such lands, and to hear and decide any summary suit relating to arrears or exaction of rent in respect thereof.

When in doubt Collector to refer to Board of Revenue.

II. If a Collector, to whom application shall be made to exercise any of the powers above mentioned, shall entertain any doubt as to whether the lands or the greater part of them are situate within his Collectorate, he shall report the case for the order of the Board to which he is subordinate, and if ordered by such Board to proceed in the matter, such order shall be conclusive upon the question of his jurisdiction.

Defines the term "Collectorate."

III. The word "Collectorate" in this Act means the zillah or other district, to which a Collector is appointed, and no lands situate beyond the limits of such zillah or district shall be deemed to be situate within the Collectorate, by reason of their forming part of an estate paying revenue to the Collector thereof.

Independent Deputy Collectorate to be deemed a Collectorate.

IV. An independent Deputy Collector may, within his Deputy Collectorate, exercise all the powers and jurisdictions of a Collector with which he may be entrusted, in the same manner and to the same extent as a Collector may do within his Collectorate, and with reference to the exercise of such powers and jurisdictions, his Deputy Collectorate shall be deemed a Collectorate, and he shall be deemed to be a Collector within the meaning of this Act.

Defines the term "independent Deputy Collector."

V. An independent Deputy Collector is an officer appointed by Government to act as Deputy Collector, independently of a Collector, whether his office is one for the receipt of revenue or not. A Deputy Collectorate is the district within which an independent Deputy Collector is directed by Government to act.

Notice of sale may be stuck up at cutcherry of independent Deputy Collector.

VI. In cases of sales by an independent Deputy Collector under the above-mentioned Regulations or Act, any notice, thereby required to be stuck up at the cutcherry of the Collector, may be stuck up at the cutcherry of the Deputy Collector.

Who may exercise his powers in any part of his district.

VII. An independent Deputy Collector may exercise the powers assigned to him over any part of his Deputy Collectorate in public cutcherry, in whatever part of his Deputy Collectorate the same may be situate or held.

Notice to be stuck up at Court of Zillah in which greater part of land is situate.

VIII. Any notice, required by the above-mentioned Regulations or Act to be given by advertisement to be stuck up at the cutcherry of the Zillah Court or local Adawlut, shall be stuck up at the Zillah Court or local Adawlut, within the jurisdiction of which the lands to be sold, or the greater portion of them, as the case may be, shall be situate.

Prior proceedings by wrong Officer etc., not to be invalid.

IX. No order, decision, or sale, made in the discharge of any of the duties aforesaid under any of the aforesaid Regulations, or under the aforesaid Act, before the passing of this Act, shall be disputed, or deemed invalid, upon the ground that the Collector, Deputy Collector, or other officer making the same, was not the Collector, Deputy Collector or officer of the proper district; or upon the ground that the Cutcherry at which notice of such sale was given was not the cutcherry of the proper district, unless proceedings shall, previously to the passing of this Act, have been commenced, for the purpose of disputing the validity of such order, decision, or sale, upon such ground.

X. Repealed by Act VIII. of 1865 of the Bengal Council.

ACT No. VII. OF 1853.

1. Extends 53 Geo. III. c. 153 sect. 105 as amended by Act. IV. of 1843 to certain petty offences against person or property, committed by European British British in the Mofussil.

2. Powers of Magistrates in such cases may be exercised by Joint Magistrates, &c.

An Act to extend the jurisdiction of Magistrates, under the 53rd George 3rd, Cap. 155, Sec. 105, in cases of assault, forcible entries, and other injuries accompanied with force, not being felonies.

Whereas, by an Act passed in the 53rd year of the reign of King George the Third, it was enacted amongst other things that it should be lawful for any Native of India resident in the East Indies or parts therein mentioned, and out of the Towns of Calcutta Madras and Bombay, in case of any Assault, forcible entry, or other injury accompanied with force, not being felony, alleged to have been done against his person or property by a British subject, to complain of such assault, forcible entry,or other injury accompanied with force, not being felony, to the Magistrate of the zillah, or district where the alleged offender should be resident, or in which such offence should have been committed, and that such Magistrate should have the power and authority therein mentioned: and whereas Natives of India, resident in the East Indies, upon complaints referred by them under the aforesaid provisions of the said Act, may be prevented from obtaining redress under the same, by reason of their inability to prove the place of their birth ; and whereas it is expedient to extend the aforesaid provisions of the said Act as amended by Act IV. 1843, to cases of assault, forcible entries, and other injuries accompanied with force, not being felonies, committed in any part of the territories under the Government of the East India Company, not being within the said Towns of Calcutta or Madras, or the Islands of Bombay, and Colaba, or the Settlement of Prince of Wales' Island, Singapore and Malacca, against the person or property of any person whatever, whether a Native of India or not : It is enacted as follows ;

Extends 53 Geo. III c. 153 sect. 105 as amended by Act. IV. of 1843 to certain petty offences against person or property, committed by European British subjects in the Mofussil.

I. The provisions of the said Act of the 53rd George 3rd and of Act IV. 1843, so far as the said provisions extend to cases of assault, forcible entries, or other injuries accompanied with force, not being felonies, against the person or property of any Native of India, are hereby extended to the case of any assault, forcible entry, or other injury accompanied with force, not being felony, which may at any time hereafter be committed in any part of the territories under the Government of the East India Company, not being within the said towns of Calcutta or Madras, the said Islands of Bombay and Colaba, or the said Settlement of Prince of Wales' Island, Singapore and Malacca, by any British subject or other person, against the person or property of any person whatever.

Powers given to Magistrates in such cases may be exercised by Joint Magistrates, etc.

II. The powers in such cases given to the Magistrate of the zillah or district may be lawfully exercised by any Joint Magistrate, or other person lawfully exercising the powers of a Magistrate, in the case of any such offence as aforesaid which may hereafter be committed within the district over which his authority extends.

ACT No. X. OF 1853.*

1. Repeals Act XXII. 1836, Sec. 4.

2. The time during which boats, &c., may remain in certain canals, and demurrage charges to be regulated by Government.

3. Provisions of Act XXII. 1836 extended to rent etc., under this Act.

An Act to amend Act No XXII. of 1836.

Whereas it is expedient to prevent boats, rafts and floats from remaining longer than necessary in any part of the lines of navigation described in Act No. XXII. of 1836, it is enacted as follows:

* This Act is to cease to apply to all navigable channels to which Act V. 1864 B. C. may be extended. *Vide* Act V. 1864 B. C.

I Section 4, of the said Act is repealed, except as to rent now due under any order or notification made in pursuance of the provisions thereof.

Repeals Act XXII. 1836, Sec. 4.

II. The Governor of Bengal shall be competent to prescribe the length of time during which boats, rafts or floats may remain in any part of either of the lines of navigation aforesaid without paying rent or demurrage, and also the rate of rent or demurrage to be levied on any boat, raft or float which shall remain therein longer than the prescribed time.

The time during which boats, etc., may remain in certain canals and demurrage charge charges to be regulated by Government.

III. The provisions of Sections 7, 8 and 9 of the said Act, so far as they apply to rent are hereby extended to the rent or demurrage to be prescribed in pursuance of this Act.

Provisions of Act XXII. 1835 extended to rent etc., under this Act.

ACT NO. XIX. OF 1853.*

1. Partially repeals Reg. XXIII. 1814, Ss. 33, 73, Reg. XXIV. 1814, S. 11, and Act VI. 1843.

2. Party to suit competent to give evidence for self or any party, but to be examined in open Court unless by consent.

3. Interest or relationship not a ground of incompetence.

4. Husband and wife may give evidence in open Court for or against each other.

5. Parties may be compelled to give evidence and produce documents.

6. Day for examination of witnesses and hearing of suit how to be appointed.

7. List of witnesses what to include.

8. Summons on party to attend as witness, not to be issued except on special application and on satisfaction of the Court.

9. Party so summoned may be called on to show cause why he should not attend.

10. Written declaration of such party in support of cause may be admitted.

11. If sufficient cause is not shown, the party shall be summoned.

12. All persons may be summoned to produce documents: expenses of witness in such cases.

13. Summons what to contain.

14. Summons how to be served.

15. And in what time.

16. Person summoned to produce document may cause its production.

17. Person summoned to give evidence, must attend.

18. Person producing document, need not be sworn.

19. Witness not compellable to produce his own title deeds, unless a party to suit or under agreement.

20. Witness not bound to produce State papers.

21. Party not bound to produce irrelevant document, or correspondence with legal adviser : Proviso.

22. Objection to produce document to be determined by the Court, to whom witness is bound to produce the same. Power of Court of appeal to compel production.

23. Professional communications not to be disclosed without consent of client, Proviso.

24. Liability of witness refusing to attend or give evidence.

25. Persons in Court muy be compelled to give evidence.

26. Liability of Witness neglecting or refusing to obey summons.

27.—28. Procedure if witness evade service of summons.

29. Summary appeal against orders of fine or imprisonment.

30. Except where witness is a party, postponement of case for non-attendance &c., to be at discretion of Court.

31. Evidence how to be taken. Procedure, when question is objected to.

32. Commission for examination of certain female witnesses.

33. Postponement of hearing by Court.

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* Act X. of 1861 has repealed this Act, except Secs. 19, and 26, as far as concerns proceedings under Act VIII. 1859.

34. Procedure on hearing if case is not postponed.
35. Court may require further evidence before hearing pleadings.
36. Power of Judg to order any witness out of Court.
37. Examination of parties to suit to be under same rules as that of other witnesses.
38. Deposition of party only to be read in evidence at instance of opposite party, unless Court for special reason order otherwise.
39. No Appeal to lie from order regarding the summoning and examination of a party as witness.
40. Repealed.
41. Interpretation. "Court." "Judge." "Suit." "Witness."
42. Application of Act.
43. Exempts Chittagong and Sylhet from provisions of Secs. 9, 10, 11.
44. Act when to take effect.

An Act to amend the Law of Evidence in the Civil Courts of the East India Company in the Bengal Presidency.

Whereas the law of evidence administered by the Civil Courts of the Presidency of Fort William in Bengal, and the rules for the attendance and examination of witnesses, and the production of documents in such Courts, require amendment; It is enacted as follows:

Partially repeals Reg. XXIII. 1814, Ss. 33, 73, Reg. Reg. XXIV. 1814, S. 11, and Act VI. 1843.

I. Section 33 and 37, Regulation XXIII. 1814, of the Bengal Code, so far as they are inconsistent with provisions of this Act, Section 11, Regulation XXIV. 1814, of the same Code, except so far as it relates to the signing and issuing of any process of Court to which the signature of the Judge nay not be specially required and Section 1, Act VI. 1843, so far as it is authorizes the examination of witnesses according to the rules established by Section 11, Regulation XXIV. 1814, aforesaid, are hereby repealed.

Party to suit competent to give evidence for self or any party, but to be examined in open Court unless by consent.

II. In any regular or summary suit, appeal, or proceeding in any of the Civil Courts of the East India Company, and also in any summary suit, or other proceeding of a civil nature before any Court, Officer, or other person having by law or by consent of parties authority to examine witnesses, any party to such suit, appeal, or proceeding shall be competent and entitled to give evidence as a witness either on his own behalf or on behalf of any other party to the suit, appeal, or proceeding, in the same manner as if he were not a party to the same. Provided that no party to a suit, appeal or proceeding, who shall offer himself as a witness therein, shall, without the consent of all parties thereto, be examined otherwise than in open Court, in such manner as the Court may direct, having regard to the usages and customs of the country, unless such examination shall be taken under and subject to the Rules prescribed by Section 32, or 38 of this Act.

Interest or relationship not grounds of incompetence.

III. No person shall, by reason of any interest in the result of any suit or of any interest connected therewith, or by reason of relationship to any of the parties thereto, be incompetent to give evidence in any such suit.

Husband and wife may give evidence in open Court for or against each other.

IV. A husband or wife shall be competent to give evidence for or against the other, provided that the examination shall take place in open Court in such manner as the Court may direct having regard to the usages and customs of the country, or that it be taken and read under and subject to the rules prescribed in Section 32, or 38 of this Act; provided also, that any communication made by husband or wife to the other during their marriage shall be deemed a privileged communication, and shall not be disclosed without the consent of the person making the same, unless such communication shall relate to a matter in dispute in a suit pending between such husband and wife.

Parties may be compelled to give evidence and produce documents.

V. Any party to a suit may be compelled to give evidence as a witness therein, and also to produce any document in his posession or power, in the same manner, by the same process, and subject to the same rules, as if he were not a party to the suit, except so far as is otherwise provided by this Act. Provided, that no Court need to compel the attendance of any party to such suit for the purpose of giving evidence therein, if such party shall satisfy the Court that he has no personal knowledge of any material subject of enquiry in the suit, and that he cannot give any material evidence therein. Nothing in this Clause shall exempt any party to a suit from being summoned to produce a document.

Day for examination of witness and hearing of suit how to be appointed.

VI. After the parties, in a suit in which according to the practice of the Court a day is fixed for the hearing, shall have filed their exhibits and lists of witnesses, the Court shall by an order in writing appoint a day, not less than fifteen days after the date thereof, for the examination of witnesses and the hearing of the suit.

List of witness what to include.

VII. The list of witnesses required to be furnished in any suit shall include the names of all the witnesses, whether parties to the suit or not, whom the party filing the list may intend to call as witnesses or whom he may require to be sum-

moned to give evidence or produce any document, also a list of the documents which he may require to be produced.

VIII. If any party to a suit shall require the attendance of any other party thereto as a witness to be enforced, he shall by himself or his pleader make a special application to the Court for an order for a summons to compel the attendance of the party, and shall show to the satisfaction of the Court sufficient grounds in support of such application, otherwise a summons shall not be issued. In cases in which, according to the practice of the Court, a day is fixed for the hearing, the application shall be made before such day shall be fixed.

Summons on party to attend as witness, not to be issued except on special application and on satisfaction of the Court.

IX. The Court, upon the application of the pleader of any party to a suit whose attendance as a witness is required, or without such application if the Court think fit so to do, may, before making such order, cause notice to be given to the party or his pleader fixing a day for such party to shew cause why he should not attend and give evidence, and may also, from time to time if necessary, for good and sufficient cause, enlarge the time for such purpose.

Party so summoned may be called on to show cause why he should not attend.

X. *Clause* 1. In support of the cause shown, the Court shall receive a declaration in writing of the party, if signed by him, and delivered into the Court by himself or his pleader.

Written declaration of such party in support of cause may be admitted.

Clause 2.—If the party making such declaration shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

XI. If no sufficient cause be shown on the day fixed or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall cause a summons to be issued for compelling the party to attend and give evidence.

If sufficient cause is not shown, the party shall be summond.

XII. The Court, on the requisition of any party to a suit or his pleader, may cause a summons to be issued to every person who shall be required to produce any material document. Previously to the issuing of any summons for the attendance of any person to give evidence or produce a document, the party requiring the same shall pay into Court such sum as shall appear to the Court to be reasonable to defray the travelling and other expenses of such person in passing to and from the Court in which he may be required to attend and give evidence, and for one day's attendance thereat. In fixing the sum to be paid into Court, regard shall be had to the rules, if any, established by the Court or Board, if any, to which such Court shall be subordinate. The sum so paid into Court shall be tendered to the witness at the time of serving the summons, if it can be served personally. In addition to the sum so paid into the Court, the Court, before whom any person who may attend in pursuance of a summons or proclamation to give evidence or produce any document, may order such further sum to be paid to the person so attending by the person causing the summons or proclamation to be issued, as may appear to be necessary to defray his travelling and other expenses, and also the expenses of his detention under the summons or proclamation, and, in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same, and the witness shall not be bound to give evidence or produce any document until such sum shall be paid.

All persons may be summoned to produce documents. Expenses of witness in such cases.

XIII. Every summons for the attendance of a witness to give evidence, or to produce a document, shall require the intended witness to attend at a time and place to be named in the summons, and shall also state whether the attendance of the witness is required for the purpose of giving evidence, or producing a document, or for both purposes. If a witness, whether a party to the suit or not, is required to attend and to produce before the Court any document alleged by the party summoning him to be in his possession or power, a direction to attend the Court with such document, shall be inserted in the summons, and the document which the witness may be so called upon to produce shall be described in the summons with convenient certainty.

Summons what to contain.

XIV. Every such summons shall, if possible, be served personally upon the person thereby required to attend, by showing the original to such person, and at the same time delivering or tendering to him a copy thereof.

Summons how to be served.

XV. Such service must be made a sufficient time before the time specified therein for his attendance to allow the witness a reasonable time for preparation and for travelling to the place at which his attendance is required.

And in what time.

XVI. Any person, whether a party to the suit or not, may be summoned to produce a document without being summoned to give evidence, and any person summoned merely to produce a document shall be deemed to have complied with the summons if he cause such document to be produced, instead of attending personally to produce the same.

Person summoned to produce document may cause its production.

XVII. Any person who shall be summoned to appear and give evidence shall be bound to attend at the time and place named for that purpose.

Person summoned to give evidence, must attend.

Person producing document, need not be sworn.

XVIII. Any person attending to produce a document may be called upon to produce the same without being sworn or examined as a witness.

Witness not compellable to produce his own title deeds, unless a party to suit or under agreement.

XIX. A witness, not a party to the suit or proceeding in which he is summoned, shall not be bound to produce his own title deeds, unless he shall have agreed in writing with the party requiring the production thereof, or with some person through whom he claims to produce such deeds.

Witness not bound to produce State papers.

XX. A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.

Witness not bound to produce irrelevant document, or correspondence with legal adviser : Proviso.

XXI. A witness, being a party to the suit, shall not be bound to produce any document in his possession or power which is not relevant or material to the case of the party requiring its production, nor any writing or correspondance which may have passed between him and any legal professional adviser. If any party, however, offer himself as a witness ,he shall be bound to produce any such writing or correspondence, in his custody, possession, or power, if relevant or material to the case of the party requiring its production.

Objection to produce document to be determined by the Court, to whom witness is bound to produce the same. Power of Court of appeal to compel production.

XXII. Every witness summoned to produce a document shall, if the same be in his custody, possession, or power, be bound to produce it, or cause it to be produced to the Court, although there be a valid objection to the right of the party calling for it to compel its production, or to the reading or putting it in as evidence, or to the disclosure of the contents thereof. The validity of any such objection made by the person producing the document shall be determined by the Court, and for the better determination thereof, it shall be lawful for the Court to receive any admissible evidence which the person producing the document may give respecting it, and it shall also be lawful for the Court to inspect the document, and if necessary to call to its assistance any person whom it may appoint to interpret the same. Such person, however, shall be previously sworn truly to interpret the same to the Court alone, and not to disclose the contents thereof except to the Court, unless the Court shall order the document to be given in evidence. If the Court shall be of opinion that such document should not be produced, the Court shall not disclose the contents thereof to the parties, or take any note, or make any mention of the contents or effect thereof in its judgment or proceedings, but shall return the document at once to the party producing the same, having previously marked the same for the purpose of identification, and shall record in its proceedings that a document, identifying it by the mark put upon it, was called for by the person, naming him, who shall call for its production, that the person having the possession of the document, naming him, objected to its production, and the reasons, if any, for such objection, together with the reasons of the Court for refusing to compel its production. If the Court shall refuse to enforce the production of a document, or to receive the same in evidence, the Court of appeal may, upon a regular appeal, compel the production of such document, and if such Court shall think that the production of the same ought to have been enforced, or that it ought to have been received in evidence, may themselves enforce its production, and receive it in evidence and decide the case upon such document, coupled with the other evidence given in the suit.

Professional communications not to be disclosed without consent of client. Proviso.

XXIII. A Barrister, attorney, or vakeel, shall not, without the consent of his client, disclose any communication made by the client to him in the course of his professional employment, nor any advice given by him professionally to his client, nor the contents of any document of his client, the knowledge of which he shall have acquired in the course of his professional employment. The privilege, however, is that of the client, and if any party to a suit shall give evidence therein at his own instance, he shall be deemed thereby to have waived his privilege, and to have consented to the disclosure by such Barrister, attorney, or vakeel, of any such matter as aforesaid which may be relevant, and which the Barrister, attorney, or vakeel would have been bound to disclose but for the privilege of his client, and the Barrister, attorney, or vakeel, shall be bound, upon examination, to disclose any such matter.

Liability of witness refusing to attend or give evidence.

XXIV. If any witness, whether a party to suit or not, to whom any summons to give evidence or produce a document shall have been personally delivered, shall, without lawful excuse, fail to comply with such summons as required by this Act, or attending, or being present in Court, shall, without lawful excuse, refuse to give evidence, or to subscribe his deposition, or to produce any document in his custody or possession, named in such summons as aforesaid, upon being required by the Court so to do, the Court shall have full power and authority to issue an order in writing to the Nazir to apprehend and bring the witness before the Court, or, if he be already before the Court, to take him into custody. And such Court may impose on such witness a fine not exceeding Five Hundred

Rupees for his default or refusal, realizable by attachment and sale of his property, and may commit him to close custody until he shall consent to give his evidence or to sign his deposition, or to produce the document, and any such fine as aforesaid shall be levied and recovered by attachment and sale of the property of such person. Provided, that no fine imposed under the provisions of this Section shall exceed the amount of the property in dispute in the suit. If any such person shall abscond, or keep out of the way, so that he cannot be seized or brought before the Court, his property shall be liable to attachment and sale in the same manner as is provided by Section 27, of this Act, with respect to a witness on whom the service of a summons cannot be effected. If such person shall be a party to the suit, the Court, instead of proceeding in the manner above pointed out, may, if the witness be a plaintiff, appellant or petitioner, dismiss the complaint, appeal, or petition, with costs against such party, or if such party be a defendant or respondent, may hear and decide the case against such defendant or respondent *ex-parte*. If any such complaint, appeal or petition shall be dismissed for such cause, the complainant or petitioner shall be debarred from preferring any other petition, appeal, or complaint in respect of the same matter.

Persons in Court may be compelled to give evidence.

XXV. Any person present in Court, whether a party or not, may be called upon and compelled by the Court to give evidence, and produce any document then and there in his actual possession, or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and may be punished in like manner for any refusal to obey the order of the Court.

Liability of witness neglecting or refusing to obey summons.

XXVI. Any person, whether a party to the suit or not, to whom a summons to attend and give evidence or produce a document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded, or kept out of the way to avoid being served with such summons, and any person who, being in Court and upon being required by the Court to give evidence, or produce a document in his possession, shall, without lawful excuse, refuse to give evidence, or sign his deposition, or to produce a document in his possession, shall, in addition to any proceedings under this Act, be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence or produce the document, for all damages which he may sustain in consequence of such neglect or refusal, or of such absconding, or keeping out of the way as aforesaid, to be recovered in a civil action.

Procedure if witness evade service of summons.

XXVII. If a person whether a party to a suit or not, for whose attendance either to give evidence or produce a document a summons shall be issued, cannot after diligent search, to be certified by a return of the Nazir, be found, the Court upon proof that the evidence of such witness, or the production of the document is material, and that the witness absconds, or keeps out of the way to avoid being served with a summons, and that he could not, after diligent search, be found or served with the summons, may cause a proclamation, requiring the attendance of such person to give evidence, or produce the document at a time and place to be named therein, to be affixed in the presence and with the attestation of two respectable householders in some conspicuous place, upon or near to his house or place of abode, and if such person shall not attend at the time and place to be named in such proclamation, and it be proved to the satisfaction of the Court that the witness cannot be found, his property, real and personal, to such amount as the Court shall deem reasonable, (but subject to the same limitation as to the articles exempt from attachment as in case of attachment for arrears of rent,) shall be liable, under an order of the Court, to attachment and sale. Provided always, that, when the order for attachment and sale shall have been issued by any Court subordinate to the Court of Sudder Dewanny Adawlut, a summary appeal shall lie within one month from the date of the order of the subordinate Court to the Court to which its orders are generally appealable; and that the Rules for the time being in force in regard to sales made in execution of decrees, as to the mode and period of attachment and the place or manner of sale, and as to claims of third parties to property attached and notified for sale, shall be held applicable to such sales.

XXVIII. *Clause* 1.—The cost of the attachment shall be borne in the first instance by the party applying for it, and the Court issuing the summons and attachment shall not proceed to sale of the property, but shall order the same to be released from attachment, if the witness shall appear and satisfy the Court that he did not abscond, or keep out of the way to avoid service of a summons, and that he had not notice of the proclamation in time to attend at the time and place named therein. Upon the appearance of such witness, the Court shall make such order in regard to the costs of the attachment as it shall deem fit. If the witness

appearing shall fail to satisfy the Court that he did not abscond, or keep out of the way to avoid service of a summons, and that he had not such notice of the proclamation as aforesaid, it shall be in the discretion of the Court to order the property attached or any part thereof to be forfeited and sold for the purpose of satisfying all costs incurred in consequence of such default, absconding, or keeping out of the way, and such fine, not exceeding the amount in dispute in the suit, as the Court may deem fit to impose upon the witness, having regard to all the circumstances of the case, and the condition in life of the witness, or the Court may order the property to be released from attachment upon payment of such costs and fine as aforesaid.

Clause 2.—An order made in pursuance of this Section shall be subject to appeal in the same manner and within the same period, as an appeal against an order for attachment and sale under the last preceding Section of this Act.

Summary appeal against orders of fine or imprisonment.

XXIX. All orders as to fines, or the levying thereof, or as to imprisonment under this Act, shall be subject to a similar appeal within one month from the date of the order.

Except where witness is a party, postponement of Case for non-attendance &c., to be at discretion of Court.

XXX. It shall not be necessary to postpone the hearing or decision of a case for the non-production of a document, or for the evidence of a witness, who may neglect or refuse to attend, or who shall abscond, or keep out of the way, or who cannot be served with a summons, beyond such period as shall appear proper to the Court, having regard to all the circumstances of the case; provided that when a summons shall have been issued for the attendance of a plaintiff or appellant in a suit to give evidence or produce a document, the Court shall at the request of the defendant or respondent, unless there be good reason to the contrary, postpone the hearing or decision until the plaintiff or appellant can be personally summoned, or shall attend and give evidence, or produce the document required, and that where a summons shall have been issued for the attendance of a defendant or respondent to give evidence or produce a document, the hearing or decision shall, upon the application of the plaintiff or appellant, be postponed in like manner, unless there be good reason to the contrary, until the defendant or respondent can be personally summoned, or shall attend and give evidence, or produce the document required.

Evidence how to be taken. Procedure, when question is objected to.

XXXI. On the day appointed for the hearing, the evidence of the attending witnesses shall be taken orally in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge. The evidence of each witness given upon such examination shall be taken down in writing, by or in the presence and under the superintendence of the Judge, not ordinarily by question and answer, but in the form of a narrative, and when completed shall be read over to the witness, and signed by him in the presence of the Judge and of the parties to the suit or their vakeels, or such of them as may think fit to attend. In case the witness shall refuse to sign the deposition, the Judge shall sign the same, and record the reason, if any, given by the witness for such refusal, together with such remarks thereon as the Judge shall think fit to make. It shall be in the discretion of the Judge to take down, or cause to be taken down, any particular question and answer if there shall appear any special reason for doing so, or any party or his vakeel shall require it. If any question put to a witness be objected to by either of the parties or there vakeels, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Judge shall also record such remarks as he may think material respecting the demeanor of any witness whilst under examination.

Commission for examination of certain female witnesses.

XXXII. In cases where the evidence is needed of females, who according to the custom of the country ought not to be compelled to appear as witnesses in a Court of Justice, and in which the Court shall be of opinion that the ends of justice require and justify it, such Court may issue a commission to any Officer of the Court or other person to be named in such commission, for the examination of such females in the hearing of the parties to the suit or their vakeels, in such manner as the Court may direct, having regard to the custom and usage of the country, and with liberty to the parties or their vakeels to cross-examine, any thing in Section 5, Act VII. 1841, to the contrary notwithstanding.

Postponement of hearing by Court.

XXXIII. On or before the day appointed for trial the Court may, for any sufficient reason, such as the unavoidable absence of any material witness, or for other good cause, on the application of either party, postpone the hearing to another day, to be named, on such terms as to the payment to the opposite party of his costs occasioned by the postponement, and otherwise as to the Court shall seem reasonable. In such case notice in writing shall be given to each of the witnesses to attend and give evidence, or to produce a document on the substituted day,

instead of the day mentioned in their summonses, if there be time to do so and the Judge shall so order. The notice shall be served in the same manner as a summons. The service of such notice shall have the same effect as if the substituted day had been originally named in such summons as the day for the appearance in Court to give evidence or produce a document, and all the provisions in this Act, relating to summonses to give evidence or produce documents, shall extend to such notices in the same manner as if such notices had been expressly mentioned in such provisions. If the application be too late to serve such notices, the Court may order that the examination of any witness who may be present, or shall attend in pursuance of a summons, shall be proceeded with, and that the further hearing of the case, after the examination of such witness, shall alone be postponed.

Procedure on hearing if case is not postponed.

XXXIV. Unless the hearing be postponed in manner aforesaid, it shall commence on the day appointed, or as soon afterwards as the business which may be pending before the Court and may be entitled to priority will allow, and the recording of evidence on the trial of any suit when begun under the rules above enacted, shall, unless there be good and sufficient reason to the contrary, (which reason shall be recorded) continue on the same day, or on consecutive business days, until the whole of the evidence of the witnesses present shall be heard. The parties or such of them as desire it shall then be heard either by themselves or their pleaders orally on the merits of the case as regards the issues both of fact and law, and after considering the argument and evidence, the Judge shall record his Judgment under Act XII. 1843.

Court may require further evidence before hearing pleadings.

XXXV. If the Court, after the evidence of all the witnesses shall have been heard, and before hearing the pleaders or recording the judgment, shall think it necessary for the ends of justice to inspect any document, or to examine any party to the suit, or any other person whose evidence may appear to be material, the Court, of its own accord, may cause such party or person to be summoned to attend as a witness to give evidence or to produce such document, if in his possession, on a day to be appointed, and may examine such party or person as a witness in open Court or in such other manner as the Court may direct, upon any question which the party or witness may be bound to answer and the Court may think necessary, and may also compel the production of any document mentioned in such summons, which any such person may have in his possession or power, and be bound to produce. Any witness so called shall be subject to the cross-examination of either party, or his vakeel. If such person, whether a party or not, shall be a female, who, according to the custom of the country, ought not to be compelled to appear as a witness in a Court of Justice, the Court may order such person to be examined in the manner provided by Section 32 of this Act, upon such questions as it may direct. The Commissioner or other person authorized to take the examination in such case may put such further questions as in his judgment may be necessary, or may arise out of the answers to be given to the questions directed by the Court.

Power of Judge to order any witness out of Court.

XXXVI. The Judge may cause public notice to be given in Court, either before or during the examination of any witness, requiring all or any other witnesses, whether parties or not who have been summoned or inserted in the list of witnesses in the same cause, to leave and to remain out of Court until further order. Any witness in a cause, who without lawful excuse shall wilfully remain in or come into Court, contrary to such notice, shall be punishable in the same manner as for a contempt of Court in open Court. Whenever such notice shall be given, the consequence of disobedience thereto shall be publicly explained at the time of giving the notice.

Examination of parties to suit to be under same rules as that of other witnesses.

XXXVII. Any party to a suit, appeal or proceeding who may be examined as a witness therein, shall, except as otherwise provided by this Act, be examined according to the rules for the time being in force as to the examination of witnesses not being parties to the suit, and shall be punishable for any false evidence given by him, in the same manner as if he were not a party.

Deposition of party only to be read in evidence at instance of opposite party, unless Court for special reason order otherwise.

XXXVIII. The words "witness" and "witnesses" in Act VII. 1841, shall respectively include any party or parties to a suit, and the said Act shall be read as if the words "or party" "or parties" had been used in such Act, in conjunction with the words "witness" or "witnesses" respectively. Provided, that the deposition of a party taken under the provisions of this Section at the instance of any opposite party may be read in evidence by, or on behalf of such last mentioned party, without the proof required by Section 5 of the said Act. Provided also that no deposition of any party taken under the provisions of this Section shall be read or used in evidence, unless taken and read at the instance of some opposite party, or unless it shall be proved that the deponent is unable, from sickness or infirmity, to attend to be personally examined, or is, without collusion or any reference to the suit, at so great a distance from the Court, that,

in the judgment of the Court, it would be unreasonable to require his personal attendance in Court for the purpose of giving such evidence. In which last-mentioned case it shall be discretionary with the Court, having regard to the nature of the case and of the evidence given, either to allow or to refuse such deposition to be read.

No Appeal to lie from order regarding the summoning and examination a party as witness.

XXXIX. No appeal shall lie from any order or decision of a Judge with respect to summoning or examining any party to a suit, or as to allowing a deposition to be read under the Section next preceding.

XL. Repealed by X. 1855.

Interpretation "Court." "Judge." "Suit." Witness."

XLI. In the construction of this Act, unless where it is otherwise expressly provided, or there is something in the subject or context repugnant to such construction, or which would render such construction inapplicable to the case, the word "Court" shall mean any Civil Court of the East India Company and shall include any Judge or other officer or person mentioned in Section 2 of this Act; the word "Judge" shall be understood to mean the chief judicial authority presiding in any such Court, and shall include any officer or person having by law or consent of parties, authority to examine witnesses and to act judicially; the word "suit" shall be deemed to mean and include any suit, appeal or proceeding mentioned in Section 2; the word "witness" shall include all persons, competent and liable to give evidence, whether parties to any suit or proceeding or not. Words importing the masculine gender and singular number shall include the feminine gender or plural number, and *vice versâ*.

Application of Act.

XLII. This Act shall extend only to Civil proceedings and to the Presidency of Fort William in Bengal and shall not include any of Her Majesty's Supreme Courts of Judicature.

Exempts Chittagong and Sylhet from provisions of Secs. 9, 10, 11.

XLIII. The Provisions of Sections 9, 10, and 11, of this Act shall not extend to the Zillah of Chittagong or Sylhet.

Act when to take effect

XLIV. This Act shall come into operation on the 1st day of January, 1854,

ACT No. V. OF 1854.

1. *Repeal of parts of Act V. 1838.*
2. *Management of the business of the Association.*
3. *Election of Directors.*
4. *Qualification of a Director.*
5. *General Meetings.*
6. *Power to make Bye-laws.*
7. *Dissolution of the Association.*

An Act to amend Act No. V. of 1838, relating to the Bengal Bonded Warehouse Association.

Whereas the Bengal Bonded Warehouse Association are desirous that the provisions of Act No. V. of 1838 should be amended, and it appears reasonable that such amendment should be made; It is enacted as follows:—

1. *Repealed by Act XIV. of 1870.*

Management of the business of the Association.

II. The business of the said Association shall be managed by six Directors, three of whom shall form a quorum.

Election of Directors.

III The two Directors who are to go out of office by rotation in every year shall go out of office in the month of May, before the holding of the ordinary General Meeting of proprietors directed to be holden in that month; and at such ordinary General Meeting two Directors shall be chosen, and the directors so going out of office, or either of them, shall be capable of being re-elected in the same year at such General Meeting.

Qualification of a Director.

IV. No person shall be capable of being a Director of the said Association who shall not be a proprietor in his own right of Five shares of the Capital Stock of the said Association.

General Meetings.

V. Ordinary General Meetings of the said proprietors shall be held at least twice in every year, that is to say, on the second Wednesday in the month of May, and the second Wednesday in the month of November, and at every such ordinary Meeting the Directors of the said Association shall present a Report in writing of the state of the affairs of the said Association, and a balance-sheet; and such General Meeting may declare a dividend out of the profits of the said Association provided that no dividend shall be made which shall diminish the Capital of the said Association.

Power to make Bye-laws.

VI. It shall be lawful for the said Association to make Bye-laws for the regulation of its own proceedings, which Bye-laws shall be binding only on its own members and officers; provided, that no such Bye-law shall be valid till it shall have been approved of by one extraordinary General Meeting of Proprietors especially convened for that purpose; provided also that no such Bye-law shall be valid till it shall have been confirmed by the Governor of the Presidency of Fort William in Bengal

Dissolution of the Association.

VII. At any time after the 14th day of March, 1860, it shall be lawful for the Governor-General of India in Council, by an Order in Council, to direct that the said Association shall be dissolved at the expiration of five years from the date of such order; and such order shall of itself have the effect of dissolving the said Corporation at the expiration of the said space of five years, except for the purposes mentioned in Section 39, Act No. V. of 1838.

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*ACT No VII. OF 1854.

1. *On the requisition of any British or Foreign Authority to deliver up to justice any person accused of any heinous offence, Government may order an inquiry.*

* Act XVII. of 1862 repeals this Act, as regards warrants issued otherwise than under its provisions.

2. Order of enquiry by whom to be signed, to whom to be directed, and what to contain.

3. Production of order to give powers to any Magistrate.

4. Magistrate empowered to issue warrant for the apprehension of the person charged.

5. Warrant, after endorsement by Magistrate, may be executed in any part of India.

6. Magistrate issuing, but not Magistrate endorsing, a warrant responsible for illegality in the issue thereof.

7. Procedure on apprehension, if offence was committed in British India.

8. Procedure, if offence was committed out of British India.

9. Procedure, if the person apprehended be carried before a Magistrate other than the one who issued the warrant, or if the warrant was issued under an order of Government and executed in another Presidency.

10. Procedure in the case of an escaped convict.

11. Magistrate to report to Government, when an offence committed in a Foreign Territory ought to be investigated in some other Zillah nearer thereto.

12. Government may authorize deposition to be received as evidence of the guilt of the party accused.

13. Magistrate to report to Government the committal of the accused.

14. On receipt of the report, Government to give a written order.

15. Procedure, if the accused be ordered to be delivered up.

16. How Magistrates are to act in carrying out the Act and in taking bail.

17. Escape of persons arrested.

18. Magistrate to apprehend persons against whom warrant has been issued in any part of the British Empire, and to bail or commit them, but not to deliver them up without orders of Government.

19. Magistrate in cases of heinous offences to arrest without any order of Government.

20. Release of persons imprisoned under this Act, if not proceeded against within two months after committal.

21. Interpretation of the expression "heinous offence."

22. Further interpretation.

23. Government to adopt proceedings to carry out Treaties for the surrender of offenders in cases not hereby provided for.

24. Sections 5, 6 and 7, Regulation XI. of 1287 repealed.

25. Interpretation.

An Act for the apprehension, within the territories under the Government of the East India Company, of persons charged with the commission of Heinous Offences beyond the limits of the said territories, and for delivering them up to justice, and to provide for the Execution of Warrants in places out of the jurisdiction of the authorities issuing them.

Whereas it is expedient to provide for apprehending and delivering up to justice persons, whether subjects of the British or of any Foreign Government, who shall take refuge or be found in any part of the territories under the Government of the East India Company, and shall be charged with having been guilty of heinous offences in any part of the dominions of Her Majesty, or in the territories of any Foreign Prince or State; to facilitate the execution in any part of the territories under the Government of the East India Company of warrants issued by competent officers in any other parts thereof; and to enable the Government of any Presidency or place within such last-mentioned territories to carry out Treaties entered into by or on behalf of Her Majesty or the East India Company with any Foreign Prince or State; It is enacted as follows:—

On the requisition of any British or Foreign Authority to deliver up to justice any person accused of any heinous offence, Government may order an inquiry.

I. If requisition be made by or by the authority of the person or persons for the time being administering the executive Government of any part of the dominions of Her Majesty, to the Government of any part of the British territories in India, to deliver up to justice any person accused of having been guilty of any heinous offence in any part of Her Majesty's dominions subject to the Government making the requisition, and who shall be, or shall be supposed to be, in any part of the British territories in India subject to the Government to which the requisition shall be made, or if a similar requisition be made by any Foreign Prince or State, or by any duly authorized Minister or Officer thereof, in respect of a person accused of having been guilty of any heinous offence in any part of the territories of such Foreign Prince or State, it shall be lawful for the Government to which the requisition shall be made, if it shall see fit so to do, to issue an order in writing for inquiry into the truth of the charge; and such order shall be sufficient proof of

the requisition having been duly made, and a sufficient justification for all acts done in pursuance thereof.

II. The order shall be signed by one of the Secretaries to the Government; it shall be directed to all Magistrates and Justices of the Peace of the Presidency or place under the control of such Government; it shall signify that the requisition has been made, shall state the nature of the offence charged, the name, or other designation, if the name be not known, of the person accused, and any other description of him that may be thought necessary; and it shall require the Magistrates and Justices to whom it shall be directed or any of them to inquire into the truth of the charge and to proceed in pursuance of this Act.

Order of enquiry by whom to be signed, to whom to be directed, and what to contain.

III. Upon the production of the order by any such Magistrate or Justice of the Peace, he shall have the same powers as if the offence charged had been committed within his jurisdiction.

Production of order to give powers to any Magistrate.

IV. If the evidence adduced shall, in the judgment of the Magistate or Justice of the Peace, be sufficient to justify the apprehension of the person accused for the offence, the Magistrate or Justice of the Peace shall issue his warrant for the apprehension of such person. The warrant shall be issued in the same manner as a warrant for an offence committed within the jurisdiction of the Magistrate or Justice of the Peace issuing it, and shall contain a memorandum stating that the warrant is issued under this Act, and, if the warrant be issued under an order of Government, shall also state the fact and specify the Government. The memorandum may be to the following effect:—

Magistrate empowered to issue warrant for the apprehension of the person charged.

This warrant is issued under Act No. VII. of 1854. and is issued under an order of the Government of———.

V. The warrant of any Magistrate or Justice of the Peace having jurisdiction in any part of the territories under the Government of the East India Company for the arrest of any person charged with having committed any offence, whether such warrant be issued under the provisions of this Act or not, may be executed within the jurisdiction of any other Magistrate or Justice of the Peace having jurisdiction in any part of the said territories, whether in the same Presidency or not, upon having a written authority under the hand and seal of the Magistrate or Justice of the Peace, within whose jurisdiction it may be executed, previously endorsed thereon and which endorsement may be to the following effect:—

Warrant, after endorsement by Magistrate, may be executed in any part of India.

To the Nazir [or other Officer as the case may be] of the Zillah of———.

"This warrant may be executed in the zillah or district of———" (describing the zillah or district of the indorsing Magistrate or Justice of the Peace) by any of the Officers to whom the same is directed or by———[describing by his name of office the Officer to whom a similar warrant, issued by the indorsing Magistrate or Justice of the Pease, would be directed.]

VI. The Magistate indorsing a warrant in pursuance of the provisions of Section 5 of this Act shall not be liable to any action or other proceeding in consequence of auy illegality in the issuing of the warrant; but any Magistrate illegally or improperly issuing the same shall be liable for an arrest in pursuance of the endorsement, in the same manner and to the same extent only as if the warrant had been executed within his own jurisdiction.

Magistrate issuing, but not Magistrate endorsing, a warrant responsible for illegality in the issue thereof.

VII. Upon the apprehension of the supposed offender, if the offence be alleged to have been committed in any part of the territories under the Government of the East India Company, he shall be carried before the Magistrate within whose jurisdiction the offence shall be alleged to have been committed, and shall be by him dealt with according to law, unless by the warrant the Officer be authorized to take bail or security, and such bail or security be given for the appearance of the person accused before the Magistrate or Justice of the Peace of the zillah or district in which the offence shall be alleged to have been committed. If the offence be charged to have been committed in any place not within the territories under the Government of the East India Company, the person arrested shall be forthwith carried before a Magistrate or Justice of the Peace of the zillah or district in which he shall be arrested. The Magistrate or Justice of the Peace, before whom the supposed offender shall be carried in pursuance of the last mentioned directions, may proceed in the same manner as in cases in which he has power to commit for trial, or to hold to bail for an offence committed within his own jurisdiction. If, after making as full an inquiry into all the circumstances of the case as the evidence obtainable by the Magistrate or Justiee of the Peace within the territories under the Government of the East India Company will enable him to make, the evidence adduced shall be sufficient in his judgment to warrant a committal, he shall commit the accused to some place of confinement within his zillah or district, which in the judgment of the Magistrate or Justice of the Peace shall be fit for receiving the prisoner, or if there be no such place, to the

Procedure on apprehension, if offence was committed in British India.

gaol of the Presidency, there to remain until he shall be delivered up or discharged by orders of Government. If after making such inquiry the circumstances shall not, in the judgment of the Magistrate or Justice of the Peace, be sufficient to warrant either the committal or the holding to bail of the prisoner, he shall be discharged.

Procedure, if the offence was committed out of British India.

VIII. If the offence charged be one committed out of the British territories in India, which, if committed within the jurisdiction of the Magistrate, would be bailable, the Magistrate or Justice of the Peace may proceed accordingly, and may discharge the prisoner upon his giving the necessary bail. The recognizance or bail-bond in such case shall be for the appearance of the accused before the Magistrate or Justice of the Peace for the time being of the zillah or district in which the recognizance shall be taken, on a certain day to be named therein, allowing reasonable time for receiving the orders of Government, and on such subsequent days as the Magistrate or Justice of the Peace for the time being shall, from time to time, appoint.

Procedure, if the person apprehended be carried before a Magistrate other than the one who issued the warrant, or if the warrant was issued under an order of Government and executed in another Presidency.

IX. If any person shall in pursuance of this Act be carried before a Magistrate or Justice of the Peace other than the one who issued the warrant, or a Magistrate or Justice of the Peace for the time being of the same zillah or district, the depositions and documents upon which the warrant was issued, or copies thereof, to be certified under the hand and seal of the Magistrate or Justice of the Peace of the zillah or district in which the warrant was issued, shall, upon the requisition of the Magistrate or Justice of the Peace before whom such person shall be carried, be forwarded to such Magistrate or Justice of the Peace; and if the warrant be issued under an order of Government, and executed in a Presidency or place not under the Government issuing the order, notice of the arrest shall be forthwith communicated to such Government, who shall forward the requisition and any documents relating thereto in their possession to the Government having jurisdiction over the place of arrest, and such last-mentioned Government shall have the same powers as the Government who made the order.

Procedure in the case of an escaped convict.

X. If the person accused of the offence mentioned in any such order of Government be proved to have been convicted and sentenced for the offence charged by a Court of Justice in any part of Her Majesty's dominions in which the offence is alleged to have been committed, and to have escaped before such sentence was carried into execution; the Magistrate or Justice of the Peace, upon proof of such conviction and sentence, may issue a warrant for the apprehension of the person accused, and he may be arrested and committed in manner aforesaid without proof, unless such person shall prove that the conviction or sentence has been reversed or annulled.

Magistrate to report to Government, when an offence committed in a Foreign Territory ought to be investigated in some other Zillah nearer thereto.

XI. If it appear to the Magistrate or Justice of the Peace, before whom any prisoner shall be carried under this Act for an offence alleged to have been committed in any territories not under the Government of the East India Company, that particular circumstances exist which render it advisable that the case should be investigated by the Magistrate or Justice of the Peace of a zillah or district nearer to such territories, he shall forthwith report the case and the particular circumstances to the Government, who shall either order such Magistrate or Justice of the Peace to proceed with the case himself, or to send the case to be investigated by the Magistrate or Justice of the Peace of any other district to be named by the Government. In the latter case the prisoner shall be sent, or if the offence be bailable, shall give bail to appear before such last-mentioned Magistrate or Justice of the Peace, who shall have power to deal with the case as if he had issued the warrant under which the prisoner shall be arrested, and all the depositions and documents shall be forwarded to such Magistrate or Justice of the Peace. The order of Government shall be a sufficient justification for all persons acting in pursuance thereof.

Government may authorize deposition to be received as evidence of the guilt of the party accused.

XII. The Government by whom any order under Section 1 of this Act shall be made, may, if they think fit so to do, direct that copies of any depositions or exhibits which shall have been laid before them and shall have been certified to their satisfaction to be true copies of depositions or exhibits made or produced before a competent judicial Officer of the territories in which the offence is alleged to have been committed, may be received in evidence of the criminality of the person accused, and such direction shall be sufficient authority for receiving the same in evidence.

Magistrate to report to Government the committal of the accused.

XIII. The Magistrate or Justice of the Peace, after committing the accused or holding him to bail as aforesaid, for any offence committed out of the territories under the Government of the East India Company, shall forthwith report the result of his proceedings to the Government to which he is subordinate, together with any remarks which he may deem necessary or proper to make upon the whole case. He shall also forward with such report a copy of all depositions and documents used before him.

XIV. Upon receipt of the report, and after examining the case, the Government may, by order in writing to be signed by the Secretary to the Government, order the accused either to be discharged or to be held to bail to appear in such Court or place and at such time or times as the Government may think fit, or to be delivered up to some person authorized by the Government or Officer making the requisition to receive and take charge of him. In cases falling within the provisions of Act I. of 1849, the Government may order the person accused to be tried under that Act.

On receipt of the report, Government to give a written order.

XV. If ordered to be delivered up, the person to whom the accused shall be ordered to be delivered shall not have the custody or charge of him so long as he shall remain in any part of the territories under the Government of the East India Company, but the accused shall be conveyed in custody through such last-mentioned territories towards the territories in which the offence shall be alleged to have been committed, in the same manner as a prisoner sent from the station of one district to that of another, and as soon as he shall have been conveyed to the frontiers of the territories under the Government of the East India Company, he shall be delivered over to some person authorized by the Government making the requisition to receive and take charge of him. If no such person shall attend to receive the prisoner, the latter shall be taken before the nearest Magistrate, who may order him to be discharged out of custody, and may provide him with such means of returning to the place where he was apprehended, or so near thereto as he may desire, as such Magistrate may think necessary and suitable to his station in life.

Procedure, if the accused be ordered to be delivered up.

XVI. Any Magistrate or Justice of the Peace acting under the provisions of this Act shall issue all necessary warrants, orders, and directions for carrying this Act, and also any order made under it by the Government, into effect, under his signature and seal, or seal of office, if he shall have a seal of office, and all Magistrates and Officers acting in pursuance of this Act shall have and exercise the same powers as if the offence charged had been committed within the zillah or district subject to their jurisdiction, and, in cases where the accused may have been held to bail, the Magistrate may order the bail-bond to be renewed in such form as may be necessary to carry any order of Government into effect, and, if such bail-bond shall not be renewed accordingly, may commit the person accused to prison for such period as may be necessary to carry such order into effect.

How Magistrates are to act in carrying out the Act and in taking bail.

XVII. In case any person arrested under this Act shall escape out of custody, he may be retaken in any part of the territories under the Government of the East India Company, in the same manner as if he had escaped from custody under process for an offence committed in that part of such territories in which he shall be found.

Escape of person arrested.

XVIII. If a warrant be issued in any part of Her Majesty's dominions not under the Government of the East India Company, for the arrest of any person for any heinous offence alleged to have been committed therein, or for the arrest of any person for any heinous offence of which he may have been convicted by a Court of competent jurisdiction in any such part of Her Majesty's dominions, any Magistrate or Justice of the Peace within the territories under the Government of the East India Company may, upon the production of such warrant and proof of the signature of the Officer signing it, and of his authority to issue the same, and without any further proof and without any order of Government, issue his warrant for the apprehension of the person accused, and after his apprehension may proceed to commit or hold him to bail in manner aforesaid, and to take such other proceedings as aforesaid as the case may require, but the person accused shall not be delivered over as aforesaid without an order of Government. The Government in such case shall have the same powers as if the proceedings had been taken in pursuance of an order of Government issued under this Act.

Magistrate to apprehend persons against whom warrant has been issued, in any part of the British Empire, and to bail or commit them, but not to deliver them up without orders of Government.

XIX. In cases in which the immediate apprehension within the British territories in India of any person accused of having committed any heinous offence mentioned in Section 21 of this Act, out of such territories, shall, in the judgment of a Magistrate or Justice of the Peace having jurisdiction in any part of such territories in which the person accused shall be found, be necessary for the ends of Justice, the person accused may, without an order of Government, be apprehended or proceeded against in the same manner as for an offence charged to have been committed in the place where the person accused shall be found, and after his apprehension he may be committed or held to bail in manner aforesaid, and such other proceedings as aforesaid may be taken as the case may require, but the person accused shall not be delivered up without an order of Government. The Government in such case shall have the same powers as if the proceedings had been taken in pursuance of an order of Government issued under this Act.

Magistrate in cases of heinous offences to arrest without any order of Government.

XX. If any person imprisoned under this Act shall not either be delivered up or discharged or brought to trial within two calendar months after his committal,

Release of persons imprisoned under this Act, if not proceeded

against within two months after committal.

it shall be lawful for the principal Court of original jurisdiction in criminal case in the district in which he shall be imprisoned, upon application by or on behalf of the prisoner, to order him to be discharged out of custody, either upon giving such bail as the Court may order, or without bail, unless sufficient cause shall be shown to the Court why such discharge ought not to be ordered. Provided, that no such order shall be made until after notice of the application or of the intention to make the same shall have been given to Government or to the Secretary or one of the Secretaries thereof.

Interpretation of the expression "heinous offence."

XXI. The words "heinous offence" in this Act shall be deemed to include treason against Her Majesty committed in any part of Her Majesty's dominions, murder, attempting to murder, rape, great personal violence, maiming, dacoity, thuggee, robbery, or burglary, cattle-stealing, breaking and entering a dwelling-house and stealing therein, arson, setting fire to a village, house or town, forgery or uttering forged documents, counterfeiting current coin, knowingly uttering base or counterfeit coin, perjury, subornation of perjury, embezzlement whether by public Officers or other persons, and being an accessory to any of the above-mentioned offences.

Further interpretation.

XXII. The said words "heinous offence" in this Act shall also be deemed to include any offence for which by any Treaty in force between Her Majesty or the East India Company and any Foreign Prince or State, Her Majesty or the East India Company shall, at the time of making any requisition as aforesaid, be bound to deliver up offenders to the Foreign Prince or State making the same, and any other offence which in the judgment of the Government to whom the requisition shall be made, shall be serious or aggravated, and for which the person accused cannot be tried within the territories under the Government of the East India Company under the provisions of Act No. I 1849.

Government to adopt proceedings to carry out Treaties for the surrender of offenders in cases not hereby provided for.

XXIII. If by any such Treaty Her Majesty or the East India Company shall be bound to deliver up to any Foreign Prince or State any person liable to be proceeded against by the laws of such Foreign Prince or State, in any case not expressly provided for by this Act, or in any manner other than that provided by this Act, it shall be lawful for the Government of any part of the territories under the Government of the East India Company, in which such person may be found, upon requisition made by or on the part of such Foreign Prince or State, to adopt such proceedings for carrying such Treaty into effect, and for the surrender of such person, and for making any preliminary inquiry into the charge contained in the requisition as it shall think fit, and any such order of the Government in writing, under the hand of one of the Secretaries of such Government, shall be a sufficient authority and justification for all acts to be done in execution thereof.

XXIV. Repealed by Act XIV. of 1870

Interpretation.

XXV. Unless where a contrary intention appears from the context, the word "Government," as used in this Act, shall be deemed to mean and include the Governor-General of India in Council, or the person or persons administering the Executive Government in any Presidency or place within the British territories in India. The words "British territories in India" shall include any part of the territories under the Government of the East India Company, the word "Magistrate," as used in this Act, is intended to include a Joint Magistrate, or any person lawfully exercising the powers of a Magistrate, and also a Justice of the Peace. Words in the singular number are intended to include the plural, and words in the masculine gender to include the feminine.

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*ACT NO. IX. OF 1854.

No order to be reversed for error not productive of injury to either party.

An Act relating to appeals in the Civil Court of the East India Company.

Whereas every case in appeal ought to be determined upon the merits without regard to technical errors or defects; It is enacted as follows:

No order or decision of any of the Civil Courts of the East India Company shall be reversed, altered, or remanded on account of any error, defect, or irregularity not productive of injury to either party.

* Act X. 1861, repeals this Act as respects all proceedings under Act VIII. 1859.

ACT NO. X. OF 1854.

Assistants or Deputy Magistrates may be empowered by the local Government to receive and determine cases without reference by Magistrate.

An Act for regulating the powers of Assistants to Magistrates and of Deputy Magistrates appointed under Act XV. of 1843.

Whereas Assistants to Magistrates, and also Deputy Magistrates Appointed under Act XV. of 1843 to exercise the powers of a Covenanted Assistant under Regulations XIII. of 1797, IX. of 1807, or III. of 1821, are not competent to decide any cases but such as are referred to them by the Magistrate; and whereas this restriction is attended with practical inconvenience to complainants in petty criminal cases; It is enacted as follows:

I. It shall be competent to the local government of each of the divisions of the Bengal Presidency, to empower Assistants to Magistrates and, also Deputy Magistrates appointed as aforesaid, to receive and try, without reference by the Magistrate, all or any of such charges as they are now competent to try upon reference by the Magistrate.

ACT No. XVI. OF 1854.

1. *Sections 3 and 7 Regulation XI. 1831, repealed.*
2. *Darogahs of Police to be subject to Tehseeldars.*
3. *Regulation XI. 1831, as amended, extended to Benares.*

An Act to amend Regulation XI. of 1831 of the Bengal Code.

Whereas the provisions of Sections 3 and 7, of Regulation XI. 1831, have been found inconvenient; and whereas it is expedient that Regulation XI. 1831 as amended by this Act, should be extended to the whole of the Province of Benares; It is enacted as follows:—

I. Sections 3 and 7, Regulation XI. 1831, of the Bengal Code are hereby repealed.

Sections 3 and 7, Regulation XI. 1831, repealed.

II. Wherever any Tehseeldar shall have Police jurisdiction under the provisions of Section 2 of the said Regulation XI. 1831, every Darogah of Police hereafter appointed within the local limits of the Police jurisdiction of such Tehseeldar shall be subordinate to, and subject to the control of, such Tehseeldar in his capacity of Chief Police Thannadar.

Darogahs of Police to be subject to Tehseeldars.

III. Regulation XI. 1831, as amended by this Act, shall extend to the whole of the Province of Benares, and all powers vested by the said Regulation in the Governor-General in Council, may be exercised by the Lieutenant-Governor of the North-Western Provinces.

Regulation XI. 1831, as amended, extended to Benares.

ACT No. XVIII. OF 1854.

1. *Fares to be prepaid. Passenger tickets to be given up on demand. Penalty.*
2. *At intermediate Stations, fares and tickets to be conditional. Proviso.*
3. *Penalty for fraud.*
4. *Fine for entering carriage, in motion. Or riding on the steps.*
5. *Fine for riding on engine, tender, or luggage-van.*
6. *Smoking prohibited.*
7. *Penalty for intoxication or nuisance.*

8. *Penalty for entering private room or carriage.*
9. *No liability for passengers' luggage.*
10. *No liability for loss of gold, silver, &c., unless in the case of special engagement.*
11. *Public notice or private contract not to limit liability.*
12. *Remedy for non-payment of the carriage of goods.*
13. *Written account of goods to be given on demand.*
14. *Penalty for false account.*
15. *Carriage of goods of a dangerous nature.*
16. *Penalty for obstructing servant in his duty.*
17. *Penalty for trespass.*
18. *Penalty for driving an animal upon or across Railway.*
19. *Precaution if Railway crosses road. Proviso. Penalty.*
20. *Railway to be fenced. Penalty for not fencing.*
21. *Liability of owner of animal trespassing.*
22. *Penalty for injury to carriage, &c.*
23. *Penalty for opening or not properly shutting gates.*
24. *Offender may be apprehended.*
25. *Penalty for wilful act or omission endangering a passenger.*
26. *Penalty for wilful act or omission in a Railway officer.*
27. *Penalty for drunkenness or breach of duty by Railway officer.*
28. *Penalty for an act not wilful.*
29. *Rule of construction of this Act.*
30. *Jurisdiction of Magistrate, &c., to fine.*
31. *Conviction to be quashed on merits only—form of conviction, &c.*
32. *Magistrate may refer case to his Assistant or Deputy.*
33. *Local Goverment may authorize Assistant &c. Proviso.*
34. *Fines how to be recovered.*
35. *Jurisdiction in the Madras and Bombay Presidencies.*
36. *Enforcing payment of fare by passenger not producing ticket.*
37. *Apprehension of offenders.*
38. *Construction.*
39. *Acts repealed.*
40. *All Indian Railways to be within the Act.*
41. *Penalty for omitting to report accident.*
42. *Local Government may require a return of accidents. Penalty.*
43. *Copy of translation of Acts to be shown at Railway Station.*

An Act relating to Railways in India.

Whereas it is expedient that all Railways, which have been, or shall be opened by any Railway Company, under the superintendence and control of the East India Company, for the public conveyance of passengers or goods in any part of the territories in the possession and under the Government of the said Company, should be subject to the same regulations ; It is enacted as follows :—

Fares to be prepaid. Passenger tickets to be given upon demand. Penalty.

I. No person shall enter any carriage used on any such Railway, for the purpose of travelling therein, without having first paid his fare, and obtained a ticket. Every person desirous of travelling on such Railway shall, upon payment of his fare, be furnished with a ticket, specifying the class of carriage and the distance for which the fare has been paid, and shall, when required, show his ticket to any servant of said Company duly authorized to examine the same, and shall deliver up such ticket, upon demand, to any of the Company's servants duly authorized to collect tickets. Any person not producing or delivering up his ticket, as aforesaid, shall be liable to pay the fare from the place whence the train originally started, unless he can prove that he has travelled a less distance only, in which case he shall be liable to pay the fare only from the place whence he has travelled.

At intermediate Stations, fares and tickets to be conditional. Proviso.

II. At the intermediate Stations, the fares shall be deemed to be accepted, and the tickets furnished only upon condition that there be room in the train for which the tickets shall be furnished. In case there shall not be room for all the passengers to whom tickets shall have been furnished, those who shall have obtained tickets for the longest distance shall have the preference ; and those who shall have obtained tickets for the same distance shall have the preference according to the order in which they shall have received their tickets. Provided that all Officers and troops of Her Majesty, or of the East India Company, on duty, and all other persons on the business of the East India Company, who by virtue of any contract with the East India Company, shall be entitled to be conveyed on such Railway in preference to, or in priority over the public, shall be entitled to such preference and priority without reference to the distance for which, or the order in which they shall have received their tickets.

III. Any person who shall defraud or attempt to defraud any such Railway Company, by travelling, or attempting to travel, upon such Railway, without having previously paid his fare: or by riding in or upon a carriage of a higher class than that for which he shall have paid his fare; or by continuing his journey in or upon any of the carriages of the Company beyond the place for which he shall have paid his fare: without previously paying the fare for the additional distance, and with intent to avoid payment thereof; or who shall knowingly and wilfully refuse or neglect, on arriving at the point to which he shall have paid his fare, to quit such carriage; or who shall, in any other manner whatever, attempt to evade the payment of his fare, shall be liable to a fine not exceeding Fifty Rupees for each offence.

Penalty for fraud.

IV. Any passenger, who shall get into or upon, or attempt to get into or upon, or shall quit, or attempt to quit, any carriage upon any such Railway, while such carriage is in motion; or who shall ride or attempt to ride upon any such Railway, on the steps, or any other part of a carriage, except on those parts which are intended for the accommodation of passengers, shall be liable to a fine not exceeding Twenty Rupees for each offence.

Fine for entering carriage in motion. Or riding on the steps.

V. Any person other than the engine-man, and fire-man, and assistant fire-man, if any, who, without the special license of the Superintendent of Locomotives, shall ride or attempt to ride upon any locomotive engine or tender upon any such Railway; and any person other than the guard or breaksman, who, without such license as aforesaid, shall ride or attempt to ride upon such Railway, in or upon any luggage van or goods-waggon, or other vehicle not appropriated to the carriage of passengers, shall be liable to a fine not exceeding Twenty Rupees for each offence.

Fine for riding on engine, tender, or luggage-van.

VI. If any person shall smoke, either on the premises, or in or upon any of the carriages belonging to any such Railway Company, except in places or carriages which may be specially provided for the purpose, he shall be liable to a fine not exceeding Twenty Rupees for each offence; and if any person persist in infringing this regulation after being warned to desist by any of the servants of the Company, such person, in addition to incurring the liability above-mentioned, may be removed by any of the servants of the Company from any such carriage, and from the premises of the Company, and shall forfeit his fare.

Smoking prohibited.

VII. Any person who shall be in a state of intoxication, or shall commit any nuisance or act of indecency in any Railway carriage, or upon any part of the premises of any such Railway Company; or who shall wilfully and without lawful excuse interfere with the comfort of any passenger on such Railway, shall be liable to a fine not exceeding Twenty Rupees; and in addition to such liability, the offender may be removed by any of the servants of the Company from any such carriage, and also from the premises of the Company, and shall forfeit his fare.

Penalty for intoxication or nuisance.

VIII. If any special carriage, or portion of a carriage, or any private room or apartment, shall be provided by any such Railway Company for the exclusive use of females, any male person, who without lawful excuse shall enter such carriage, or portion of a carriage, or any such room or apartment, knowing the same to be exclusively appropriated as aforesaid, or shall remain therein after having been informed of its exclusive appropriation, shall be liable to a fine not exceeding One Hundred Rupees, and may be removed therefrom, and also from the premises of the Company, by any of the servants of the Company, and shall forfeit his fare.

Penalty for entering private room or carriage.

IX. No such Railway Company shall in any case be answerable for loss or injury to any passengers' luggage unless it shall have been booked and separately paid for.

No liability for passenger's luggage.

X. No such Railway Company shall in any case be answerable for loss of or injury to any gold or silver, coined or uncoined, manufactured or unmanufactured, or any precious stones, jewellery, watches, clocks, or time-pieces of any description, trinkets, Government securities, bills of exchange, promissory notes, Bank-notes, orders, or other securities for payment of money, Government stamp-paper, postage stamps, maps, writings, title-deeds, paintings, engravings, pictures, plated articles, glass, china silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials, shawls, lace, or any of them, contained in any parcel or package which shall have been delivered to such Railway Company, either to be carried for hire or to accompany the person of any passenger, unless the value and nature of such articles shall have been declared by the person or persons sending or delivering the same, and an increased charge for the safe conveyance of the same shall have been accepted by some person especially authorized to enter into such engagements on behalf of the said Railway Company.

No liability for loss of Gold, Silver, &c., unless in the case of special engagement.

Public notice or private contract not to limit liability.

XI. The liability of such Railway Company for loss or injury to any articles or goods to be carried by them other than those specially provided for by this Act shall not be deemed or construed to be limited or in any wise affected by any public notice given, or any private contract made by them; but such Railway Company shall be answerable for such loss or injury when it shall have been caused by gross negligence or misconduct on the part of their agents or servants.

Remedy for non-payment of the carriage of goods.

XII. If any person shall fail to pay on demand any sum due to any such Railway Company for the conveyance of any goods, it shall be lawful for the Company to detain all or any part of such goods, or, if the same shall have been removed from the premises of the Company, any other goods of such person which shall then be on their premises, or shall thereafter come into their possession; and also to sell by public auction sufficient of such goods to realize the sum payable as aforesaid, and all charges and expenses of such detention and sale, and out of the proceeds of the sale, to retain the sum so payable, together with the charges and expenses aforesaid, rendering the overplus, if any, of the money arising by such sale, and such of the goods as shall remain unsold, to the person entitled thereto; or the Company may recover any such sum by action at law.

Written account of goods to be given on demand.

XIII. The owner or person having the care of any goods which shall have been carried upon any such Railway, or shall be brought on to the premises of any such Railway Company for the purpose of being carried on their Railway, shall, on demand by any servant of the Company appointed to receive goods to be carried on that part of the Railway on which such goods shall have been carried, or shall be about to be carried, deliver to such servant an exact account in writing signed by him of the number or quantity and description of such goods.

Penalty for false account.

XIV. If any such owner or person as aforesaid shall wilfully fail to give such account to such servant of the Company, or if he shall wilfully give a false account thereof, he shall for every such offence be liable to a fine not exceeding Fifty Rupees for every ton of goods, or for any parcel exceeding one hundred weight; and to a fine not exceeding Twenty Rupees for any quantity of goods less than a ton or for any parcel less than one hundred weight.

Carriage of goods of a dangerous nature.

XV. No person shall carry upon any such Railway any dangerous goods, or be entitled to require any such Railway Company to carry upon such Railway any luggage or goods which, in the judgment of the Company or any of their servants, shall be of a dangerous nature; and if any person shall carry upon such Railway any dangerous goods or shall deliver to such Railway Company any such goods for the purpose of being carried upon such Railway, without distinctly marking their nature on the outside of the package containing the same, or otherwise giving notice in writing of the nature thereof to the book-keeper or other servant of the Company to whom the same shall be delivered for the purpose of being so carried, he shall be liable to a fine not exceeding Two Hundred Rupees for every such offence; and it shall be lawful for any such Company or any of their servants to refuse to carry any luggage or parcel that they may suspect to contain goods of a dangerous nature, and to require the same to be opened to ascertain the fact previously to carrying the same, and in case any such luggage or parcel shall be received by the Company for the purpose of being carried on the Railway, it shall be lawful for the Company or any of their servants to stop the transit thereof, until they shall be satisfied as to the nature of the contents of the baggage or parcel.

Penalty for obstructing servant in his duty.

XVI. Any person who shall wilfully obstruct or impede any officer or servant of the Company in the discharge of his duty on such Railway, or any of the works, stations, or premises connected therewith, shall be liable to a fine not exceeding Fifty Rupees.

Penalty for trespass.

XVII. Any person who shall trespass upon any such Railway, or upon any of the lands, stations, or other premises belonging to the Company, shall be liable to a fine not exceeding Twenty Rupees; and if any such person shall refuse to leave such Railway or premises on being requested to do so by any officer or servant of the Company, or by any other person on behalf of the Company, he shall be liable to a fine not exceeding Fifty Rupees, and may be immediately removed from such Railway premises by such officer, servant, or other person as aforesaid.

Penalty for driving an animal upon or across Railway.

XVIII. Any person who shall wilfully ride, lead, or drive upon or across any such Railway, any animal, except in directly crossing the said Railway at any road or place appointed for that purpose, at a time at which he shall be lawfully authorized so to do, shall be liable to a fine not exceeding Fifty Rupees for each offence.

Precaution if Railway crosses road. Proviso. Penalty.

XIX. If the Railway cross any public carriage road on a level, the Railway Company shall erect, and at all times maintain good and efficient gates, either across the Railway, or across the road on each side of the Railway where the same shall communicate with the road, and shall employ proper persons to open and

shut such gates. If such gates be across the road they shall be kept constantly closed, except during the time when horses, cattle, carts, or carriages passing along the same shall have to cross the Railway, and the gates shall be of such dimensions and so constructed as when closed to fence in the Railway, and prevent cattle or horses passing along the road from entering upon the Railway. If the gates be across the Railway that shall be kept closed, except when engines or carriages passing along the Railway shall have occasion to cross the road, and shall be of such dimensions and so constructed as when open to fence in the Railway and prevent cattle, carriages, or passengers from entering upon the Railway. Provided that it shall be lawful for the local Government in any case to order that the gates shall be across the road or across the Railway as the Government may think fit, and in such case the gates shall be erected, maintained, and closed accordingly. If any Railway Company shall wilfully fail to comply with the provisions of this Section, they shall forfeit a sum not exceeding Two Hundred Rupees for each offence, and any Magistrate or Justice of the Peace may in case any such gates be not erected or maintained, order the Company to erect and maintain the same within a time to be specified in the order, and in case of wilful failure on the part of the Railway Company to comply with such order, they shall be liable to a fine not exceeding Two Hundred Rupees for every day that they shall wilfully fail so to do.

Railway to be fenced. Penalty for not fencing.

XX. Every such Railway Company shall be bound to erect and maintain good and sufficient fences on each side of their Railway; or, failing therein, shall be liable to a fine not exceeding Fifty Rupees for every offence; and it shall be lawful for a Magistrate or Justice of the peace to order the Company to erect or repair any such fence within a time to be specified in the order, and, upon failure of the Company to comply with such order, they shall be liable to a fine not exceeding Fifty Rupees for every day that they fail so to do.

Liability of owner of animal trespassing.

XXI. The owner of any animal which shall trespass or stray upon any such Railway, or upon any lands belonging to such Railway Company, except for want of the erection or maintenance of any fence or gate which the Company is bound to erect and maintain, shall be liable to a fine not exceeding Ten Rupees for each animal; and it shall be lawful for the Company, or any of their servants to take or drive every animals which shall be found so trespassing to the nearest Police Station, there to be detaind until the highest amount of fine incurred by such trespass and the expense of feeding and keeping the animal be paid, or until a Magistrate shall otherwise order. A Magistrate may, upon proof of the trespass, caus such animal to be sold by public auction, and the proceeds of the sale, after deducting therefrom such fine or such a sum, not exceeding Ten Rupees for each animal, as the Magistrate shall award to be paid in lieu of the fine to which the owner is hereby made liable, and such further sum as the Magistrate shall order to be paid for the expenses of detaining, feeding, and selling such animal, shall be returned to the owner of the animal on demand.

Penalty for injury to carriage, &c.

XXII. Any person who shall unlawfully and wilfully remove or deface the number plates, or remove or extinguish any lamp on any carriage belonging to any such Railway Company; or shall wilfully or negligently damage or injure any carriage, engine, waggon, truck, werehouse, building, machine, fence, or any other matter or thing belonging to such Railway Company, shall be liable to a fine not exceeding Fifty Rupees.

Penalty for opening or not properly shutting gates.

XXIII. If any person for whose use or accommodation any gate shall have been set up by any such Railway Company on either side of such Railway, or any other person, shall open such gate, or pass or attempt to pass, or drive or attempt to drive any carriage, cattle, or other animal or thing across the said Railway at a time when any engine or train approaching along the same shall be in sight; or shall at any time omit to shut and fasten such gate, as soon as he and any carriage, cattle, or other animal or thing under his charge shall have passed through the same, he shall be liable to a fine not exceeding Fifty Rupees.

Offender may be apprehended.

XXIV. If any person shall commit any offence hereby made punishable by fine, and the name and address of such person shall be unknown, or there be reason to believe that the offender will abscond, any officer or servant of the Company, or any Police Officer, or other person whom such officer or servant may call to his aid, may, without any warrant or written authority, lawfully apprehend and detain such offender until he can be taken before a Magistrate or other officer having jurisdiction over the offence, or shall give sufficient security for his appearance before such Magistrate or other officer, or shall be otherwise discharged by due course of law.

Penalty for wilful act or omission in a Railway officer.

XXV. Whoever shall wilfully do any act, or shall wilfully omit to do what he is legally bound to do, intending by such act or omission to cause, or knowing that he is thereby likely to cause the safety of any person travelling or being upon

any such Railway to be endangered, shall be liable to be transported beyond sea for the term of his life, or to be imprisoned, with or without hard labor, for any term not exceeding seven years.

Penalty for wilful act or omission in a Railway officer.

XXVI. If any officer or servant of such Railway Company shall wilfully do any act which he is legally prohibited from doing, or shall wilfully or negligently omit to do what he is legally bound to do, and if in consequence of such act or omission, the safety of any person travelling or being upon such Railway shall be endangered, such officer or servant shall be liable to be imprisoned, with or without hard labor, for any term not exceeding three years, or to fine or to both

Penalty for drunkenness or breach of duty by Railway officer.

XXVII. Any officer or servant of such Railway Company, who shall be in a state of intoxication whilst actually employed upon the Railway, or any of the works connected therewith, in the discharge of any duty, and any officer or servant of such Company who negligently shall omit to perform his duty, or shall perform the same in an improper manner, shall be liable to a fine not exceeding Fifty Rupees ; and if the duty in any of the cases in this Section above-mentioned be such that the omission or negligent performance thereof would be likely to endanger the safety of any person travelling or being upon such Railway, such officer or servant shall, on conviction before a Magistrate, be liable to imprisonment, with or without hard labor, for a term not exceeding one year, or to fine, or to both.

Penalty for an act not wilful.

XXVIII. If any person shall rashly or negligently, and without lawful excuse, do any act which shall be likely to endanger the safety of any person travelling or being upon such Railway, he shall. upon conviction before a Magistrate, be liable to imprisonment, with or without hard labor, for a term not exceeding one year, or to fine, or to both.

Rule of construction of this Act.

XXIX. In the construction of this Act, every officer and servant of such Railway Company shall be deemed to be legally bound to do everything, necessary for or conducive to the safety of the public, which he shall be required to do by any regulation which shall be made by the Company, and allowed by the Governor-General of India in Council, and of which regulation such officer or servant shall have notice ; and every such officer and servant shall be deemed to be legally prohibited from doing every act which shall be deemed to be legally prohibited from doing every act which shall be likely to cause danger, and which by any such regulation he shall be prohibited from doing ; and every person employed by or on behalf of such Railway Company to do any act upon the Railway shall be deemed to be a servant of the Company.

Jurisdiction of Magistrate, &c., to fine.

XXX. Any person, whether a European British subject or not, who shall be guilty of any offence, for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras and Bombay, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not, and any person hereby made punishable by a Justice of the Peace, shall be punishable upon summary conviction.

Conviction to be quashed on merits only—form of conviction, etc.

XXXI. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits ; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds ; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Magistrate may refer case to his Assistant or Deputy.

XXXII. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only to any of his Assistants, or to any Deputy Magistrate lawfully appointed to exercise the powers of a Covenanted Assistant, and in such case every such Assistant or Deputy Magistrate may exercise all the powers vested in a Magistrate, subject to all the rules applicable to criminal cases deputed to such Assistants or Deputy Magistrate, acting judicially.

Local Government may authorize Assistant, etc. Proviso.

XXXIII. The local Government may give general authority to any such Assistant or Deputy Magistrate to exercise, without reference by a Magistrate, any of the powers which they are hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant or Deputy Magistrate, within one month from the date of conviction. Provided that a Magistrate may at any time call from any of his Assistants, or from any Deputy Magistrate subordinate to him, any case pending before such Assistant or Deputy Magistrate

XXXIV. All fines imposed under the authority of this Act for offences punishable by fine only by any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, or by any Assistant to a Magistrate, or Deputy Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named officers; and in case any such fine shall not be forthwith paid, any such officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such officer may take such security by way of recognizance or otherwise; and if upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such officer may, by warrant under his hand, commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labor according to the discretion of such officer, for any term not exceeding two calendar months when the amount of the fine shall not exceed Fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed One Hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Fines how to be recovered.

XXXV. The heads of district police and ameens of police in the Presidency of Madras, and district or joint police officers in the Presidency of Bombay, may punish, to the extent of the powers conferred upon them respectively in petty offences, any offence hereby made punishable by fine not exceeding Twenty Rupees.

Jurisdiction in the Madras and Bombay Presidencies.

XXXVI. Payment of any fare to which any passenger not producing or delivering up his ticket shall be liable under Section 1, of this Act, may be enforced in the same manner as any fine imposed by this Act.

Enforcing payment of fare by passenger not producing ticket.

XXXVII. Every person who shall be guilty of any offence mentioned in Sections 25, 26, 27, and 28 of this Act, may be lawfully apprehended without any warrant or written authority, by any servant or officer of the Company, or by any other person whom such officer or servant shall call to his aid, or by any police officer of such grade as shall by any law in force for the time being be entrusted in any case with the power of arrest without a warrant; and every person so apprehended shall, with all convenient despatch, be carried and conveyed before a Magistrate or Justice of the Peace, or other officer lawfully authorized to punish the offender or to commit him for trial.

Apprehension of offenders.

XXXVIII. In the construction of this Act, unless where a contrary intention appears from the context, the word "Magistrate" shall include a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate; words in the singular number shall include the plural; words in the plural shall include the singular; and words in ths masculine gender shall include the feminine; and the word "fine" shall include a sum of money due upon a forfeited recognizance.

Construction.

XXXIX. Repealed by Act XIV. of 1870.

XL. Every Railway within the said territories, used for the public conveyance of passengers or goods, shall, until the contrary be proved, be presumed to be a Railway within the meaning of this Act, and every Company to whom any such Railway shall belong shall, until the contrary be proved, be presumed to be a Railway Company within the meaning of this Act.

All Indian Railways to be within the Act.

XLI. Every such Railway Company shall, within forty-eight hours after the occurrence upon the Railway belonging to such Company of any accident attended with serious personal injury, give notice thereof to the local Government; and if any such Company omit to give such notice, they shall forfeit the sum of Fifty Rupees for every day during which the omission to give the same shall continue.

Penalty for omitting to report accident.

XLII. The local Government may order and direct any such Railway Company to make up and deliver to them a return of serious accidents occurring in the course of the public traffic upon the Railway belonging to such Company, whether attended with personal injury or not, in such form and manner as the Government shall deem necessary and require for their information, with a view to the public safety; and if any such returns shall not be so delivered within fourteen days after the same shall have been required, every such Company shall forfeit the sum of Fifty Rupees for every day during which the said Company shall neglect to deliver the same.

Local Government may require a return of accidents.
Penalty.

Copy and translation of Acts to be shown at Railway Stations.

XLIII. A copy of this Act, and of the General Regulations, Time Tables, and Tariff of charges, which shall from time to time be published by any Railway Company with the sanction of the local Government, shall be exhibited in some conspicuous place at each Station of every Railway, so that they may be easily seen and read ; and all such documents shall be so exhibited in English and in the Vernacular language of the district in which the Station is situate, and in such other language, if any, as shall be required by order of the local Government.

ACT No. XXVI. OF 1854.

1. General control and superintendence of the education of male minor Wards vested in Collectors of Revenue.

2. Collectors to have power to cause male minor Wards to be educated at any school or college.

3. Or, in certain cases to cause such wards to be educated privately.

4. Charges and expenses incurred under this Act to be paid out of the profits of the Ward's estate.

5. Court of Wards to have power to remove guardians for disobedience to orders passed by a Collector under this Act.

6. Continued liability of guardian removed: powers and responsibilities of new guardian.

7. The right to the custody of the person of a male minor to be vested in guardian appointed by the Court of Wards, or, failing him, in the Collector.

8. Appeal from the orders of a Collector to lie to Commissioner of Revenue acting as a Court of Wards.

An Act for making better provision for the Education of Male Minors subject to the superintendence of the Court of Wards.

Whereas the existing laws are found insufficient to ensure the proper education of male minors subject to the superin endence of the Court of Wards, and it is expedient to make further and better provision for the education of such persons ; It is enacted as follows :—

General control and superintendence of the education of male minor Wards vested in Collectors of Revenue.

I. The general superintendence and control of the education of every male minor, whose property has been, or shall be brought under the management of the Court of Wards, in and for any part of the Presidency of Fort William, by virtue of any Act or Regulation, which now is, or hereafter shall be in force, is hereby vested in the Collector of Revenue, acting under the said Court of Wards, in the zillah or district wherein such minor's estate is situate ; or, if such minor is possessed of immoveable property in different districts, in such one of the Collectors of Revenue of such districts as the said Court of Wards shall select.

Collectors to have power to cause male minor Wards to be educated at any school or college.

II. It shall be lawful for every Collector of Revenue, in whom the superintendence of the education of any minor is vested by this Act, to direct that such minor shall reside, either with or without his guardian, at the sudder station of the district, or at any other place within the said Presidency, and shall attend, for the purposes of education, such school or college as to the said Collector may seem expedient ; and to make such provision as may be necessary for the proper care and suitable maintenance of the said minor whilst attending such school or college.

Or, in certain cases to causes such Wards to be educated privately.

III. If it shall appear to the Collector inexpedient to place any such minor at a school or college, he shall, if the proceeds of the estate are sufficient for that purpose, cause such minor to be educated by a private tutor, properly qualified, either at the family residence of such minor, or at the sudder station, or elsewhere within the said Presidency ; and in that case also the Collector shall have power to determine from time to time the place of residence of such minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Charges and expenses incurred under this Act to be paid out

IV. All charges and expenses which may be incurred on account of any male minor ward under the provisions of this Act, for college or school fees, or for other charges of tuition or education, or by reason of his residence in any

place other than his own home or otherwise, shall be defrayed from the profits of his estate in the same manner as other expenses incurred under the authority, or with the sanction of the Court of Wards.

of the profits of the Ward's estate.

V. It shall be lawful for the Court of Wards, on the application of a Collector, to remove from office any guardian who shall neglect or refuse to obey, or shall evade compliance with any orders passed, or directions given by such Collector under the provisions of this Act, and to cause a new guardian to be appointed in his place, whether the person so removed shall have been first invested with the guardianship of the minor upon the nomination of a Collector acting under the Court of Wards, or by a testamentary appointment confirmed by the Court of Wards; and if, in any such case, the guardian to be removed shall be also the manager of the minor's estate, it shall be lawful for the Court of Wards at its discretion, either to remove him from both the said offices, or to continue him in that of manager only.

Court of Wards to have power to remove guardians for disobedience to order passed by a Collector under this Act.

VI. The guardian so removed shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship: and every guardian appointed in the place of a guardian so removed shall be chosen in the same way, and shall have the same rights and powers, and be subject to the same responsibilities as persons originally appointed to be guardians of minors by a Collector of Revenue acting under the Court of Wards.

Continued liability of guardian removed: powers and responsibilities of new guardian.

VII. The right to the custody of the person of any male minor, whose property is under the management of the Court of Wards, is hereby vested in the person appointed with the sanction of the Court of Wards, either originally, or upon the removal of a former guardian, to be the guardian of such minor, or, in the absence of any such person, in the Collector of Revenue having the superintendence of the education of such minor under the provisions of this Act.

The right to the custody of the person of a male minor to be vested in guardian appointed by the Court of Wards, or failing him, in the Collector.

VIII. All orders and proceedings of a Collector under the provisions of this Act, shall be subject to the revision of the Court of Wards, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Commissioner of Revenue acting as a Court of Wards in and for the division to which such Collector belongs.

Appeal from the orders of a Collector to lie to Commissioner of Revenue acting as a Court of Wards.

ACT No. XXVII. OF 1854.

1. *Regulations repealed.*
2. *Execution of Civil process within the Nazim's palace.*
3. *Execution of Criminal process within the Nazim's palace.*
4. *Proof of execution.*
5. *Limits of the place how to be defined.*

An Act to amend the Law relating to the Nazim of Bengal.

Whereas it is expedient to repeal such parts of the Bengal Regulations as relate to the Nazim of Bengal, his servants, and relations, and to make better provision for the execution of process within the precincts of the palace of the Nazim at Moorshedabad, It is enacted as follows:—

I. Repealed by Act XIV. of 1870.

II. When any process, issued by any Civil Court, Collector, or other Revenue Officer, in the Territories of the East India Company, is required to be served or executed within the precincts of the palace of the Nazim at Moorshedabad, such process shall be transmitted to the Superintendent of the affairs of the Nizamut, or other Officer, however denominated, exercising for the time being the control and superintendence of the affairs of the Nizamut; and such Superintendent or other Officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same with a certificate of what shall have been done thereon.

Execution of Civil process within the Nazim's palace.

III. When any process issued by any Criminal Court, Justice of the Peace, Magistrate, or Officer exercising the powers or any of the powers of a Magistrate, in the Territories of the East India Company, is required to be served or executed within the precincts of the palace of the Nazim at Moorshedabad, such process may, at the discretion of the Court or Officer issuing the same, be transmitted to the Superintendent of the affairs of the Nizamut, or other Officer, however denominated,

Execution of Criminal process within the Nazim's palace.

exercising for the time being the control and superintendence of the affairs of the Nizamut ; and in such case, such Superintendent or other Officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same with a certificate of what shall have been done thereon.

Proof of execution.

IV. Every certificate returned by the Superintendent or other Officer aforesaid under this Act, shall, in all cases, be admitted as *primâ facie* proof of the truth of the matter stated therein.

Limits of the place how to be defined.

V. It shall be lawful for the Government of Bengal to define, for the purposes of this Act, by notification in the *Calcutta Gazette*, the limits of the precincts of the palace of the Nazim at Moorshadabad ; and from time to time in like manner to alter such limits.

ACT No. XXX. OF 1854.

1. *Acts repealed.*
2. *Duty on Imports by Sea.*
3. *Special duty on Salt imported by Sea. Special Duty on Opium imported by Sea.*
4. *Duty on Exports by Sea.*
5. *Bengal Customs Law to apply.*
6. *River Frontier Duty on Imports. Special duty on Spirits. Special Duty on Teak.*
7. *Special Duty on Teak in Martaban and Tenasserim.*
8. *Rules for Teak floated.*
9. *River Frontier Duty on Exports.*
10. *Valuation of Goods chargeable ad-valorem.*
11. *Special Rule for Arms, Ammunition, and Sulphur.*
12. *Commencement of Act.*

An Act to provide for the levy of Duties of Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces.

Whereas it is expedient that the Arracan, Pegu, Martaban, and Tenasserim Provinces should be placed, as nearly as possible, in the same position with the Provinces of Bengal and Orissa in respect to the levy of Duties of Sea Customs ; that Duties of River Customs should be levied on the Northern Frontier of Pegu ; that the floating down of Teak Timber, and the duties payable thereon, in certain of these Provinces, should be regulated by law ; and that the exportation of munitions of war from any of these Provinces into Foreign States should be prohibited ; It is enacted as follows :—

I. Repealed by Act XIV. of 1870.

Duty on imports by Sea.

II. With the exceptions mentioned in Section 3, of this Act, all goods imported by Sea into any part of the Arracan, Pegu, Martaban, and Tenasserim Provinces, from any Port not subject to the Government of the East India Company, or from the Port of Aden, or from any Port in the Straits of Malacca, shall be charged with the same rates of duty as those which are or shall be charged on goods of the same description imported from the same Ports into the Provinces of Bengal or Orissa.

Special duty on salt imported by Sea. Special Duty on Opium imported by Sea.

III. Salt imported by Sea into any part of the Arracan, Pegu, Martaban, and Tenasserim Provinces, shall be charged duty at the rate of eight annas a maund : provided that it shall be, in respect to Arracan, in the power of the Governor or Lieutenant-Governor of Bengal, and in respect to Pegu, Martaban, and Tenasserim in the power of the Governor General of India in Council, to fix from time to time, upon Salt imported by Sea, any lower rate of duty that may be thought proper, in order to equalize the rate of Customs Duty upon Salt imported by Sea into any of the said Provinces with the rate of Excise Duty on Salt manufactured in the same Provinces. Opium imported by Sea into any part of the said Provinces shall be charged duty at the rate of Twenty-four Rupees a seer, excepting Opium purchased at a Government Sale in Calcutta, which shall be free : provided that no Opium of any description shall be landed in the Provinces aforesaid without a Pass from the Collector of Customs at the Port of landing, in default of which such Opium shall be seized and confiscated.

IV. All goods, except Teak Timber exported by Sea from any part of the Arracan, Pegu, Martaban, and Tenasserim Provinces, to any Port not subject to the Government of the East India Company, or to the Port of Aden, or to any Port in the Straits of Malacca, shall be charged with the same rates of duty as those which are, or shall be, charged upon goods of the same description exported to the same Ports from the Provinces of Bengal and Orissa: Provided that when goods, which have paid River Frontier Import duty under Section 6, of this Act, are exported by Sea under a Certificate of the Collector of River Frontier Customs, passed by the Collector of Sea Customs, the amount of River Frontier Import Duty so paid shall be accepted in full payment of the Sea Export duty chargeable under this Section. * Duty on exports by Sea.

V. All the laws and rules relating to the levy of duties of Customs, which are or shall be in force in the Provinces of Bengal and Orissa, shall apply to the levy of duties of Sea Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces; provided that the powers, which, in the Provinces of Bengal and Orissa, are or shall be vested in the Governor or Lieutenant-Governor of Bengal, shall be vested, in respect of Pegu, Martaban, and Tenasserim, in the Governor-General of India in Council, and that the powers which, in the Provinces of Bengal and Orissa, are or shall be vested in the Board of Revenue, shall, in respect of Pegu and Martaban, be vested in the Commissioners of those Provinces respectively. Bengal Customs Law to apply.

VI. All goods, excepting Bullion and Coin, Precious Stones and Pearls, Cotton Wool, Grain and Pulse and Living Animals, which shall all be free; and excepting Spirituous Liquors and Teak Timber, for which special rules are provided; imported by the River Irrawaddy or the River Sitang from beyond the Northern Frontier of Pegu; shall be charged, on passing the Frontier Custom House on the Irrawaddy, or the Frontier Custom House on the Sitang, with a duty of Customs of ten *per centum ad valorem*. Spirituous Liquors, on passing either of the said Custom Houses, shall be charged Import Duty at the rate of One Rupee a gallon. Teak Timber, on passing either of the said Custom Houses, shall be charged Import Duty at such rate as shall be fixed from time to time by the Governor-General of India in Council, in order to equalize the rate of duty charged on Foreign Teak Timber so imported with the price that may be fixed from time to time for permission to appropriate and remove Teak Timber of the same description growing in the forests of Pegu, which are State property. River Frontier Duty on Imports. Special duty on Spirits. Special duty on Teak.

VII. Teak Timber, floated down any river in the Martaban or Tenasserim Provinces, shall be charged with the same duty as that chargeable for the time being under Section 6, on Teak Timber passing a River Frontier Custom House, and this duty shall be levied at such places on the said rivers as the Governor-General of India in Council shall appoint. Special Duty on Teak in Martaban and Tenasserim.

VIII. It shall be lawful for the Governor-General of India in Council, in respect of the Pegu, Martaban and Tenasserim Provinces, to promulgate such rules for the time and manner of the floating of Teak Timber within the said Provinces respectively, as may to him seem fit; and to prescribe what descriptions of Teak Timber may lawfully be floated, and what descriptions of Teak Timber may not lawfully be floated, within the said Provinces respectively. And all Teak Timber found floating contrary to such rules or orders shall be confiscated. Rules for Teak floated.

IX. Goods of the descriptions specified in the Schedule annexed to this Act, exported beyond the Northern Frontier of Pegu, by the River Irrawaddy, or the River Sitang, shall be charged Export Duty on passing the Frontier Custom House on the Irrawaddy, or the Frontier Custom House on the Sitang, according to the rates fixed in the said Schedule; and the said Schedule shall be taken to be a part of this Act. River Frontier Duty on Export.

X. The Governor-General of India in Council shall have power to fix, from time to time, the valuation at which any article liable to *ad valorem* duty on passing a River Frontier Custom House shall be valued in order to the assessment of duty: and in respect of goods passing such a Custom House which are not so valued, in case of dispute respecting their value, the Collector of Customs of the station shall have power to call on the possessor of the goods to assign the value thereof; and thereupon the Collector of Customs shall have power, if he pleases to purchase such goods on account of Government, at the value so assigned, paying for such goods forthwith, after deducting the duty due upon them according to the value so assigned. Valuation of Goods chargeable ad-valorent.

XI. Arms, Ammunition, or Sulphur shall not be imported by Sea into the Arracan, Pegu, Martaban, or Tenasserim Provinces, nor exported by land or by Special Rule for Arms, Ammunition and Sulphur.

* So much of sections 2, 3 and 4 as fixes the duty on imports and export by sea—except of salt or opium,—into or from any part of British India is repealed.

river into any Foreign Territory, from any of those Provinces, without a license from a Collector of Customs, or other Officer having charge of the collection of Customs; and such articles, if an attempt be made so to import or export them, shall be confiscated.

XII. Repealed by Act XIV. of 1870.

SCHEDULE.

REFERRED TO IN SECTION 9, OF THIS ACT.

Enumeration of Goods.	*Rate of Export duty.*
Rice	An anna a basket.
Paddy	Half an anna a basket.
Salt	Four annas a maund.
Betel-Nut	*Ten per centum ad-valorem.*
Nyapee; dried, smoked, salted, and preserved fish, and fish roes, ..	*Ten per centum ad-valorem.*

ACT No. XXXI. OF 1854.

1. Real actions, &c., abolished.
2. Tenant in tail may dispose of or enlarge his estate by simple deed &c.
3. A married woman, with her husband's concurrence, empowered to dispose of her estate by deed acknowledged, &c.
4. Provision to apply to money subject to be invested in lands.
5. Execution of deeds by married women.
6. If husband be lunatic &c., Court may direct acknowledgment by deed without his concurrence, saving right of the husband, &c.
7. Supreme Courts may appoint for the purpose of taking such acknowledgment, permanent or special Commissioners.
8. Such married woman to be examined apart before Judge, &c., taking her acknowledgment.
9. Judge, &c., shall sign a Memorandum of acknowledgment—form of it.
10. Deed of married woman to take effect from time of acknowledgment.
11. Deed when presumed to have been duly acknowledged.
12. Nothing in this Act to abridge the powers of alienation which a married woman possessed before.
13. Contingent estates in deeds or wills without trustees to preserve, to be protected by the law from destruction.
14. Estate may be conveyed, &c., by deed, though not operating under the Statute of Uses.
15. No conveyance to operate tortuously.
16. Words of limitation not necessary in a deed, to give estate by inheritance. Estate limited to heirs shall not unite with a prior life-estate.
17. Bonâ-fide purchaser not required to see to application of trust-money in any case.
18. Act to apply only to cases governed by English Law.
19. Interpretation.

An Act to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land in cases to which the English Law is applicable.

Whereas it is expedient, in cases to which the English Law applies, to abolish real actions and also fines and common recoveries, and to simplify the modes of conveying land, and to exempt the purchasers of trust property from the liability to see to the application of the purchase money; it is enacted as follows:—

I. Repealed by Act XIV. of 1870.

Tenant in tail may dispose of or enlarge his estate by simple deed, etc.

II. Every tenant in tail or other owner of an estate of inheritance less than an estate in fee simple either at law or in equity, in any lands or hereditaments, not being under any disability, shall have power to dispose of such lands and hereditaments against the issue in tail, and all persons whose estates are to take effect after the determination or in defeasance of his own, or to enlarge his said estate into an estate in fee simple, by any deed declaring an intention so to dispose of

the said lands or hereditaments, or to enlarge his estate therein; and every tenant in tail or other owner of an estate of inheritance less than an estate in fee simple, who shall be under the disability of coverture, shall have power to dispose of or enlarge her said estate in manner aforesaid, by any deed declaring her intention so to do, and acknowledged by her as hereinafter mentioned. Provided that every disposition under this Section shall be subject to the rights of all persons in respect of estates prior to the estate tail or other estate of inheritance which is the subject of such disposition, and the rights of all other persons, except those against whom such dispositions is by this Act authorized to be made.

A married woman, with her husband's concurrence, empowered to dispose of her estate by deed acknowledged, etc.

III. Every married woman who, either alone, or jointly with her husband, is possessed of, or entitled to any estate or interest in, or any power to be exercised over, any lands or hereditaments, which but for the passing of this Act, she might have disposed of or extinguished by levying a fine or suffering a recovery, or by joining in either of such assurances, shall have power by deed, to be acknowledged by her as hereinafter mentioned, to dispose of, release, surrender, or extinguish any such estates, interest, or power, as fully and effectually as if she were an unmarried woman.

Provision to apply to money subject to be invested in lands.

IV. The provisions of the last two preceding Sections shall, so far as circumstances will admit, apply to money subject to be invested in lands or other hereditaments.

Execution of deeds by married women.

V. No deed to be executed by a married woman under the provisions hereinbefore contained shall, so far as regards the interest of such married woman, be valid or effectual, unless her husband concur therein, nor unless the deed be acknowledged in manner hereinafter prescribed before a Judge of one of Her Majesty's Supreme Courts, or before a Judge or other Covenanted Officer of the East India Company exercising Civil jurisdiction in the place wherein such deed shall be acknowledged, or before some Commissioner appointed either specially for the occasion, or appointed as a permanent Commissioner by one of Her Majesty's said Courts to take such acknowledgments.

If husband be lunatic etc., Court may direct acknowledgment by deed without his concurrence, saving right of the husband, etc.

VI. If the husband of any married woman, desirous of enlarging, passing, or destroying any estate interest, or power, by a deed to be acknowledged by her under this Act, shall be a lunatic, idiot, or of unsound mind, whether he shall have been found such by inquisition or not, from any other cause shall be incapable of executing a deed, or if his residence shall not be known, or if he shall be in prison, or living apart from his wife either by mutual consent or by sentence of divorce or in consequence of his being transported beyond the seas, or from any other cause whatever, it shall be lawful for any of Her Majesty's said Courts, by an order to be made in a summary way upon the application of such married woman, and upon such evidence as to the Court shall seem meet, to dispense with the concurrence of her husband in the deeds so to be acknowledged; and any deed to be executed or acknowledged by her in pursuance of such order shall (but without prejudice to the rights of her husband as then existing, independently of this Act,) be as valid and effectual as if he had concurred therein.

Supreme Courts may appoint for the purpose of taking such acknowledgment permanent or special Commissioners.

VII. It shall be lawful for any of Her Majesty's said Courts to appoint, by its order, under the seal of the Court, to be published in the Government Gazette or otherwise as the Court shall direct, permanent Commissioners, either by name or office, and to appoint from time to time, under special Commissions, Special Commissioners, any one of whom shall be authorized and empowered, unless the act is directed to be done before more than one, to take the acknowledgment of any deed by any married woman who by reason of her place of residence, or ill-health, or other sufficient cause, shall be unable to make such acknowledgment before one of the Judges or other officers described in the preceding Section.

Such married woman to be examined apart before Judge, etc., taking her acknowledgment.

VIII. Every such Judge, Officer, or Commissioner as aforesaid, before he shall receive the acknowledgment by any married woman of any deed to be acknowledged by her under this Act, shall examine her apart from her husband, touching her knowledge of such deed, and shall ascertain whether she understands its object, and freely and voluntarily consents to the same, and unless she appears to understand its object, and freely and voluntarily to consent to such deed, he shall not permit her to acknowledge the same, and in such case such deed, so far as relates to the execution thereof by such married woman, shall be void.

Judge, etc., shall sign a Memorandum of acknowledgment—form of it.

IX. Every Judge, Officer, or Commissioner taking such acknowledgment under this Act, shall at the time of taking the same, sign a memorandum to be endorsed on or written at the foot or in the margin of such deed, which memorandum shall be to the following effect, namely, "this deed, marked ( ), was this day produced before me and acknowledged by——————therein named, to be her act and deed,) previous to which acknowledgment the said————was examined by me separately and apart from her husband, touching her knowledge of the contents of the said deed, and her consent thereto, and appeared to understand the same, and declared the same to be freely and voluntarily executed by her."

Deed of married woman to take effect from time of acknowledgment.

Deed when presumed to have been duly acknowledged.

X. Every deed executed by a married woman and hereby required to be acknowledged, shall so, far as regards the interest of such married woman, take effect only from the time of the acknowledgment thereof.

XI. It shall not be necessary for any person producing a deed so acknowledged in any Court of Justice, to prove the hand-writing or authority of the Judge or other Officer, or the Commissioner taking such acknowledgment, but if such memorandum purports to have been in substance regularly made and signed, the deed shall be presumed to have been duly acknowledged by the party, until the contrary is shown.

Nothing in this Act to abridge the powers of alienation which a married woman possessed before.

Contingent estates in deeds or wills without trustees to preserve, to be protected by the law from destruction.

XII. Nothing in this Act contained shall abridge, extend, or affect the powers of alienation or disposition, which any married woman might have exercised over any property or rights, otherwise than by levying a fine or suffering a recovery, or by joining in one of such assurances before the passing of this Act.

XIII. In any deed or will executed after this Act comes into operation, and disposing of immoveable property situate in the territories in the possession and under the Government of the East India Company, wherein contingent estates are limited without the appointment of any trustees to preserve such contingent estates the same shall be, to all intents and purposes, as affectually protected by the law as if such trustees had been duly appointed.

Estate may be conveyed, etc., by deed, though not operating under the Statute of Uses.

No conveyance to operate tortuously.

XIV. Any estate or interest in immovable property, situate within the said territories, whether in possession, remainder, or reversion, may, in addition to any other mode of conveyance or release which is now valid, be conveyed, passed, or released by a simple deed, whether such deed operate under the Statute of Uses or not.

XV. No conveyance of any kind shall operate to destroy, impair, or affect any estate or interest which the conveying party has no right to destroy, impair, or affect, or beyond the extent to which he may impair or affect the same.

Words of limitation not necessary in a deed, to give estate by inheritance. Estate limited to heirs shall not unite with a prior life-estate.

XVI. It shall not be necessary in any deed relating to immovable property situate within the said territories, to be executed after the passing of this Act, to add words of limitation to heirs, when the intention is to give the absolute interest to a person and his heirs general; but a gift, grant, or other conveyance of immovable property to, or in favor of any person, shall be taken to give him the entire and absolute interest in the nature of an estate in fee simple, unless such construction is rendered inadmissible by the other contents of the deed: and when in any deed or will executed after the passing of this Act any property is given to a person for life or for other freehold interest, and afterwards in the same deed or will is limited to his heirs or heir special, the estates shall not unite, but the limitation to the heirs shall be a limitation of an estate to be taken by the heirs by purchase.

Bona-fide purchaser not required to see to application of trust-money in any case.

XVII. When any property is sold, the proceeds of which are subject to any trust, the *bonâ-fide* purchaser of the property shall not in any case be bound to see to the application of the purchase-money to the purposes of the trust.

Act to apply only to cases governed by English Law.

XVIII. Nothing in this Act contained shall extend to any case to which the English Law is not applicable.

Interpretation.

XIX. The term "Her Majesty's Supreme Courts" shall include the Court of Judicature of Prince of Wale's Island Singapore, and Malcca.

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*ACT No. XXXIII. OF 1854.

1. Decisions to be written in the Vernacular language of the Judge and to be signed by him and filed. Translation when to be recorded.

2. Points to be established shall be written in the Vernacular language of the Judge and signed by him in Court. Translation when to be recorded.

3. Decisions not required to be written in open Court.

4. No appeal for non-compliance with this Act or Act No. XII. of 1843. Appellate Court by precept may require compliance.

5. Saving of provisions of Act No. XII. of 1843.

*This Act does not apply to suits or proceedings under Act VIII. 1859. *See* Act X. 1861.

An Act to extend the provisions of Act No. XII. of 1843.

Whereas it is expedient that every decision, sentence, or final order, made or passed by any Officer of the East India Company acting judicially, together with the reasons for the same, should be written in the Vernacular language of the Officer by whom the same is made or passed, and should be signed by him at the time of pronouncing such decision, sentence, or order; It is enacted as follows:—

Decisions to be written in the Vernacular language of the Judge and to be signed by him and filed. Translation when to be recorded.

I. Every decision, sentence, or final order, which shall hereafter be made or passed by any Officer of the East India Company acting judicially, together with the reasons for making or passing the same, shall be written in the Vernacular language of such Officer, and shall be dated and signed by such Officer in Court at the time of his making or passing the same, and the original shall be filed with the record or proceedings in the case, and a translation thereof, where the original is recorded in a different language to that in ordinary use in proceedings before such Officer, shall be incorporated in the decree or record of the decision, sentence, or order.

Points to be established shall be written in the Vernacular language of the Judge and signed by him in Court. Translation when to be recorded.

II. Whenever, in any suit before any Officer of the East India Company acting judicially, the points to be established by the parties respectively, or on which proof is required by the Court, are directed by law to be recorded, the points shall be written in the Vernacular language of such Officer, and the writing shall be dated and signed by him in Court at the time of his announcing the points to the parties; and if the Vernacular language of such Officer be different from the language in ordinary use in proceedings before the Court, a translation shall be incorporated in the record.

Decisions not required to be written in open Court.

III. Nothing in this Act, or in Act No. XII. of 1843, shall be so construed as to require Officers of the East India Company acting judicially to write their decisions, sentences, injunctions, or orders, or to record the point or points to be established by the parties respectively, under the last preceding Section, in open Court.

No appeal for non-compliance with this Act or Act No. XII. of 1843. Appellate Court by precept may require compliance.

IV. No appeal shall lie from any decision, sentence, injunction, or order, nor shall the same be reversed or remanded upon the ground of non-compliance with the provisions of this Act, or of Act No. XII. of 1843. But the Appellate Court may, by precept, require the Officer of the Lower Court to comply with the provisions of this Act, or of Act No. XII. of 1843, and to certify his reasons for any such decision, sentence, or order to the Appellate Court; and any such Appellate Court may, if it deem it necessary for the ends of justice, postpone its final decision in the appeal until such precept shall have been returned.

Saving of provisions of Act No XII. of 1843.

V. Nothing in this Act contained shall be deemed to repeal any of the provisions of Act No. XII. of 1843.

ACT No. II. OF 1855.

1. Repeals Act X. 1835.

2—6. Courts and persons authorised to take evidence to take Judicial notice of all Indian Regulations and Acts, of all public Acts of Parliament, of their own officers, and of the names, titles, &c., of persons filling certain offices, and of the divisions of time and place, and of war and peace, and natural flags.

7. Any Government Gazette to be proved by bare production.

8. Proclamations to be proved by production of Gazette and to be primâ facie proof of any public fact notified in them.

9 Recital in Acts to be primâ facie proof of facts recited.

10. Gazettes or newspapers to be primâ facie evidence of the authority under which the advertisement is published.

11. Books, maps and charts may be referred to as evidence in matters of public history.

12. Foreign Codes and laws may be proved by books purporting to be published by authority of State.

13. Government Maps to be primâ facie evidence.

14. No persons to be incompetent to testify, but children under 7 years of age and insane persons; and they only in certain circumstances.

15—17. Children and persons of defective religious belief, may give evidence in writing or by simple affirmation, and shall be punished as for perjury if they give false evidence.

18. Interest in suit not to render a person incompetent to give evidence.

19. Any party to a civil proceeding may be examined as a witness and compelled to produce documents.

20. Husband or wife may give evidence for or against each other with certain limitations.

21. Documents relating to State affairs not to be produced.

22. Party to suit not bound to produce irrelevant documents or correspondence with legal advisers, unless he has offered himself as a witness.

23. Witness summoned to produce a document must bring it into Court, and if there be an objection to its production, the validity of it shall be determined by the Court.

24. Professional adviser prohibited from disclosing any confidential communications made by his client, unless the client shall by his acts or directly have waived his privilege.

25. Any person present in Court may be compelled to give evidence though not summoned.

26. Persons summoned to produce a document need not attend personally.

27. Rules of evidence of the Ecclesiastical and admiralty sides of the Supreme Court to be the same as on the Plea side.

28. Except in cases of treason and perjury the evidence of one credible witness shall be sufficient proof.

29. Dying declarations to be admissible though the deceased at the time hoped to recover.

30. Party allowed to discredit his own witness.

31. Former statement by a witness may be admitted to corroborate his testimony.

32. Witness bound to answer criminating questions, but such answer shall not be used as evidence against him in any criminal proceeding, except on a charge of perjury.

33. Witness may be examined as to conviction for felony.

34. Witness may be cross-examined as to previous written statements. Proviso.

35. Copies by copying machines to be deemed correct.

36. Secondary evidence may be admitted by order of Court after notice when the original document is out of reach of process.

37. When a document is valid without attestation it may be proved as if unattested.

38. Admission to be primâ facie evidence of an attested document as against the person admitting.

39—40. Entry made against interest or in course of business to be admissible in life time of person making it, under certain circumstances and for purpose of identification.

41. Receipt to be evidence in certain cases against person other than the giver.
42. Receipt of agent or servant admissible on proof of authority.
43. Books kept in course of business, &c., admissible, but only as corroborative evidence.
44. Certain other documents admissible as corroborative evidence.
45. Witness may be allowed to refresh his memory by any writing made at the time, or by leave of Court by a copy.
46. Declarations of illegitimate persons.
48. Comparison of hand-writing.
49. Authenticated power of attorney may be proved by simple production.
50. Dispatch of letter may be proved by production of letter book.
51. Receipt of letter may be proved primâ facie by production of letter receipt book.
52. Act XV. 1852 Sec. 6, repealed.
53—54. Act VI. 1854, Sec. 16, 17 extended to all civil proceedings.
55. Act VI, 1854, Sec. 33, extended to accounts on all sides of the Court.
56. Proof of official documents.
57. Improper admission or rejection of evidence shall not of itself be ground for a new trial.
58. Evidence admissible before not to be rendered inadmissible by this Act.

An Act for the further improvement of the Law of Evidence.

WHEREAS it is expedient further to improve the Law of Evidence, It is enacted as follows :—

I. Act No. X of 1835 is hereby repealed.

Judicial notice to be taken of all Acts and Regulations.

II. Within the territories in the possession and under the Government of the East India Company, all Courts of Justice, and all persons having by law or consent of parties authority to take evidence, shall take judicial notice of all Regulations and Ordinances made before or on the 22nd day of April 1834 by the Governor General in Council of the Presidency of Fort William in Bengal, by the Governor in Council of the Presidency of Fort St. George, or by the Governor in Council of the Presidency of Bombay, and having the force of law in any part of the said territories, and of all Laws and Regulations heretofore made by the Governor General of India in Council, and of this Act, and of all Acts and Regulations heretofore made, or hereafter to be made by the Governor General of India in Council, constituted for the purpose of making Laws and Regulations whether the same be of a public or of a private nature.

Judicial notice to be taken of public Acts of Parliament.

What shall be prima facie proof of a private Act.

III. All Courts and persons aforesaid shall take judicial notice of all public Acts of Parliament and of all local and personal Acts declared by Parliament to be public and to be judicially noticed, and shall admit as *primâ facie* evidence of any private Act of Parliament, any copy thereof, purporting to be printed by the King's Printer.

Judicial notice to be taken by Court of its own Officers, &c.

IV. Every Court shall take judicial notice of its own members and officers respectively, and of their deputies and subordinate officers or assistants, and also of all officers acting in execution of its process, and of all Advocates, Attornies, Proctors, Vakeels, Pleaders, and other persons authorized by law to act before it.

Judicial notice to be taken of the names, titles &c., of certain persons.

V. All Courts and persons aforesaid shall take judicial notice of the names, titles, and authorities of the persons filling for the time being any one of the following offices in any part of the said territories :—Governor-General, Governor, Lieutenant Governor or Deputy Governor, Secretary or Under-Secretary to Government, Commander-in-Chief, Bishop, Member of Council, Legislative Councillor, Judge of any of Her Majesty's Courts or of any Sudder Court, or of any Court of Judicature hereafter to be constituted in the said territories to or in which the powers of any of Her Majesty's Supreme Courts may be transferred or vested.

Judicial notice to be taken of divisions of time, place, &c.

VI. All such Courts and persons aforesaid shall take Judicial notice of all divisions of time, of the geographical divisions of the world, of the territories under the dominion of the British Crown, of the commencement, continuation and termination of hostilities between the British Crown and any other State, and also of the existence, title and national flag of every Sovereign or State recognized by the British Crown. In all the above cases, such Court or persons may resort for its aid to appropriate books or documents of reference.

Any Government Gazette to be proved by bare production.

VII. Any Government *Gazette* of any Country, Colony, or Dependency under the dominion of the British Crown, may be proved by the bare production thereof before any of the Courts or persons aforesaid.

Proclamations to be proved by production of Gazette and to be

VIII. All proclamations, Acts of State, whether Legislative or Executive, nominations, appointments, and other Official communications of the Government appearing in any such *Gazette*, may be proved by the production of such

prima facie proof of any public fact notified in them.

Gazette, and shall be *primâ facie* proof of any fact of a public nature which they were intended to notify.

Recital in Acts to be prima facie proof of facts recited.

IX. Any recital contained in any Act of the Governor General of India in Council, constituted for the purpose of making Laws and Regulations hereinafter to be passed, of any fact of a public nature, shall be deemed, before all such Courts and persons, to be *primâ facie* evidence of the truth of the fact recited.

Gazettes or newspapers to be prima facie evidence of the authority under which the advertisement is published.

X. The *Gazette* or Newspaper containing any advertisment purporting to be published by virtue of any public Statute, Act, Regulation, or Ordinance, or of any Rule or Order of a Court of Justice or of any Board or Officer of Revenue, may be received by any such Courts or persons as aforesaid as *primâ facie* evidence that such advertisement was published duly under the authority from which it purports to proceed.

Books, maps and charts may be referred to as evidence in matters of public history.

XI. All Courts and persons aforesaid may, on matters of public History, Literature, Science, or Art, refer, for the purposes of evidence, to such published Books, Maps, or Charts as such Courts or persons shall consider to be of authority on the subject to which they relate.

Foreign Codes and Laws may be proved by books purporting to be published by authority of State.

XII. Books printed or published under the authority of the Government of a Foreign Country and purporting to contain the Statutes, Code, or other written law of such country, and also printed and published Books of Reports of decisions of the Courts of such country, and books proved to be commonly admitted in such Courts as evidence of the law of such country, shall be admissible before any such Courts or persons as aforesaid as evidence of the law of such Foreign Country.

Government Maps to be prima facie evidence.

XIII. All Maps made under the authority of Government or of any public municipal body, and not made for the purpose of any litigated questions, shall *primâ facie* be deemed to be correct, and shall be admitted in evidence without further proof.

Persons incompetent to testify.

XIV. The following persons only shall be incompetent to testify;—

Children.

1. Children under seven years of age who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly.

Insane persons.

2. Persons of unsound mind, who, at the time of their examination, appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly; and no person who is known to be of unsound mind shall be liable to be summoned as a witness, without the consent previously obtained of the Court or person before whom his attendance is required.

Not to be summoned without leave of Court.

Children and persons of defective religious belief to testify on simple affirmation.

XV. Any person who, by reason of immature age or want of religious belief, or who, by reason of defect of religious belief, ought not, in the opinion of such Court or persons, to be admitted to give evidence on oath or solemn affirmation, shall be admitted to give evidence on a simple affirmation, declaring that he will speak the truth, the whole truth, and nothing but the truth.

Provisions as to witness to apply to affidavits, &c.

XVI. The provisions in the last preceding Section as to witnesses shall apply to testimony given by affidavit or otherwise in writing as well as to testimony orally delivered.

XVII. Repealed by Act XIV. of 1870.

Interest in suit not to render a person incompetent to give evidence.

XVIII. No person shall, by reason of any interest in the result of any suit or of any interest connected therewith or by reason of relationship to any of the parties thereto, be incompetent to give evidence in such suit.

Any party to a civil proceeding may be examined as a witness and compelled to produce documents.

XIX. Any party to a civil suit or other proceeding of a civil nature shall be competent and may be compelled to give evidence as a witness therein either on his own behalf or on behalf of any other party to the suit or proceeding, and also to produce any document in his possession or power in the same manner as if he were not a party to the suit or proceeding. Provided that no Court or person as aforesaid, other than Her Majesty's Supreme Court of Judicature, shall compel the attendance of any party to such suit or proceeding, for the purpose of giving evidence therein, except under and subject to the rules prescribed in that behalf in Act XIX. of 1853.

Husband or wife may give evidence for or against each other with certain limitations.

XX. A husband or wife shall in every civil proceeding be competent to give evidence for or against each other. Provided that any communication made by husband or wife to the other during their marriage shall be deemed a privileged communication and shall not be disclosed without the consent of the person making the same, unless such communication shall relate to a matter in dispute in a suit pending between such husband and wife.

Documents relating to State affairs not to be produced.

XXI. A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.

XXII. A witness being a party to the suit shall not be bound to produce any document in his possession or power which is not relevant or material to the case of the party requiring its production, or any confidential writing or correspondence which may have passed between him and any legal professional adviser. If any party, however, offer himself as a witness, he shall be bound to produce any such writing or correspondence in his custody, possession, or power, if relevant or material to the case of the party requiring its production.

Party to suit not bound to produce irrelevant documents or correspondence with legal advisers, unless he has offered himself as a witness.

XXIII. Every witness summoned to produce a document shall, if the same be in his custody, possession, or power, be bound to bring it, or cause it to be brought into Court, although there be valid objection to the right of the party calling for it to compel its production, or to the reading or putting it in as evidence, or to the disclosure of the contents thereof. The validity of any such objection made by the person producing the document shall be determined by the Court; and for the better determination thereof, it shall be lawful for the Court to receive any admissible evidence which the person producing the document may give respecting it, and it shall also be lawful for the Court, except in the case of any document relating to affairs of State, to inspect the document, and, if necessary, to call to its assistance any person whom it may appoint to interpret the same. Such person, however, shall be previously sworn truly to interpret the same to the Court alone, and not to disclose the contents thereof except to the Court, unless the Court shall order the document to be given in evidence.

Witness summoned to produce a document must bring it into Court, and if there be an objection to its production, the validity of it shall be determined by the Court.

XXIV. A Barrister, Attorney or Vakeel shall not, without the consent of his client, disclose any communication made by the client to him in the course of his professional employment, nor any advice given by him professionally to his client, nor the contents of any document of his client, the knowledge of which he shall have acquired in the course of his professional employment. The privilege, however, is that of the client, and if any party to a suit shall give evidence therein, at his own instance, he shall be deemed thereby to have waived his privilege, and to have consented to the disclosure by such Barrister, Attorney or Vakeel, of any matter as aforesaid, which may be relevant, and which the Barrister, Attorney, or Vakeel, would have been bound to disclose, but for the privilege of his client; and the Barrister, attorney or Vakeel shall be bound upon examination to disclose any such matter.

Professional adviser prohibited from disclosing any confidential communications made by his client, unless the client shall by his acts or directly have waived his privilege.

XXV. Repealed by Act X. 1861.

XXVI. Do. do.

XXVII. The rules of evidence in Her Majesty's Supreme Courts as to matters of Ecclesiastical or Admiralty Civil jurisdiction, shall be the same as they are on the Plea side of the said Courts.

Rules of evidence of the Ecclesiastical and Admiralty sides of the Supreme Court to be the same as on the Plea side.

XXVIII. Except in cases of treason, the direct evidence of one witness who is entitled to full credit, shall be sufficient for proof of any fact in any such Court or before any such person. But this provision shall not affect any rule or practice of any Court that requires corroborative evidence in support of the testimony of an accomplice or of a single witness in the case of perjury.

Except in cases of treason and perjury the evidence of one credible witness shall be sufficient proof.

XXIX. Where dying declarations are evidence, they shall be received if it be proved that the deceased was at the time of making the declaration, and then thought himself to be in danger of approaching death, though he entertained at the time of making it hope of recovery.

Dying declarations when admissible.

XXX. The party at whose instance a witness is examined may, with the permission of such Court or person, cross-examine such witness to test his veracity, in the same manner as if he had not been called at his instance, and may be allowed to show that the witness has varied from a previous statement made by him.

Party allowed to discredit his own witness.

XXXI. In order to corroborate the testimony of a witness, any former statement made by such witness, relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, shall be admissible, and for that purpose a copy of any deposition or statement taken before any Court, Judge, Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate, or before a Commissioner or Superintendent for the suppression of Thuggee or Dacoity in the discharge of his duty, shall, if certified by such Court, Judge, or other officer above-mentioned, under his hand or the official seal of the Court, or under the hand or official seal of such Judge, to be a true copy of such deposition or statement without further proof, be received as *primâ facie* evidence that such deposition or statement was made, and that it was made at the time and place, and under the circumstances, if any, which shall be stated in the certificate or on the face of the deposition or statement.

Former statement by a witness may be admitted to corroborate his testimony.

Witness bound to answer criminating questions, but such answer shall not be used as evidence against him in any criminal proceeding, except on a charge of perjury.

XXXII. A witness shall not be excused from answering any question relevant to the matter in issue in any suit or in any Civil or Criminal proceeding, upon the ground that the answer to such question will criminate, or may tend directly or indirectly to criminate such witness, or that it will expose, or tend directly or indirectly to expose such witness to a penalty or forfeiture of any kind. Provided that no such answer, which a witness shall be compelled to give, shall, except for the purpose of punishing such person for lawfully giving false evidence upon such examination, subject him to any arrest or prosecution, or be used as evidence against such witness in any criminal proceeding.

Witness may be examined as to conviction for felony.

XXXIII. A witness in any cause may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either denies the fact or refuses to answer, it shall be lawful for the opposite party to prove such conviction.

Witness may be cross-examined as to previous statements Proviso.

XXXIV. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause, without such writing being shown to him ; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him. Provided always, that it shall be competent for the Judge, at any time during the trial, to require the production of the writing for his inspection, and he may thereupon make such use of it for the purpose of the trial as he shall think fit.

Copies by copying machines to be deemed correct.

XXXV. An impression of a document made by a copying machine shall be taken without further proof to be a correct copy.

Secondary evidence may be admitted document is out of reach of process.

XXXVI. When an original document is out of the reach of the process of the Court, it shall be lawful for the Court, on application to it in any Civil suit or proceeding, and on notice to the opposite party at a reasonable time before the hearing, to make an order for the reception of secondary evidence of its execution and contents.

When a document is valid without attestation it may be proved as if unattested.

XXXVII. An attested document may be proved as if unattested, unless it be a document to the validity of which attestation is requisite.

Admission to be prima facie evidence of an attested document

XXXVIII. The admission of a party to an attested instrument of its execution by himself shall be as against him sufficient *primâ facie* proof of such execution of it, though it be an instrument which is required by law to be attested.

Entry made against interest or in course of business to be admissible in life time of person making it, under certain circumstances and for purpose of identification.

XXXIX. Any entry or statement, which would be admissible in evidence after the death of the person who made it, on the ground of its having been made against the interest of the person making it, or on the ground of its having been made in the ordinary course of business, shall be admissible, though the person who made it be not dead, if he is incapable of giving evidence by reason of his subsequent loss of understanding, or is at the time of the trial or hearing *bonâ fide* and permanently beyond the reach of the process of the Court, or cannot after diligent search be found.

XL. Any entry in any books proved to have been regularly kept in the course of business or in any public office, so far as such entry merely refers to and tends to identify by name, description, number, or otherwise any bank Notes or Securities for the payment of money, or other property, and the payer-in or receiver of them, shall in any case where such identification is necessary to be proved, be admissible in evidence for that limited purpose if it shall appear to to have been made at or about the time of the transaction to which it relates, though the person who made it, or he on whose information it was made, is alive and capable or being produced as a witness.

Receipt to be evidence in certain cases against person other than the giver.

XLI. Any receipt in writing acknowledging the receipt of any money valuable securities, or goods, shall on proof of the execution thereof, be admissible in evidence before such Court or person aforesaid, not only against the party giving it, but also against any person in whose favour such receipt would operate as a discharge, or to whom it would render the person giving it liable for the money security or goods acknowledged to have been received.

Receipt of agent or servant admisssible on proof of authority.

XLII. Whenever a receipt would be admissible under the preceding Section if given by a principal, a receipt given by an agent or servant of such principal shall in like manner be evidence upon proof of the authority to give such receipt.

Books kept in course of business, &c., admissible, but only as corroborative evidence

XLIII. Books proved to have been regularly kept in the course of business or in any public office, shall be admissible as corroborative, but not as independent proof of the facts stated therein.

Certain other documents admissible as

XLIV. The following documents may be admitted as corroborative evidence:—Certificates of shares, and of registration thereof bills of lading, invoices,

account sales, receipts usually given on the payment, deposit, or delivery of money, goods, securities, or other things, provided they be proved to have been given in the ordinary course of business.

corroborative evidence.

XLV. A witness shall be allowed before any such Court or person aforesaid to refresh his memory by any writing made by himself or by any other person at the time when the fact occurred, or immediately afterwards, or at any other time when the fact was fresh in his memory, and he knew that the same was correctly stated in the writing. In such case the writing shall be produced and may be seen by the adverse party, who may, if he choose, cross-examine the witness upon it.

Witness may be allowed to refresh his memory by any writing made at the time, or by leave of Court by a copy.

XLVI. Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document, provided the Court or person under the circumstances be satisfied that there is sufficient reason for the non-production of the original.

Declarations of illegitimate persons.

XLVII. In cases of pedigree, the declarations of illigitimate members of the family, and also, of persons who, though not related by blood or marriage to the family, were intimately acquainted with its members and state, shall be admissible in evidence after the death of the declarant, in the same manner and to the same extent as those of deceased members of the family.

XLVIII. On an inquiry whether a signature, writing, or seal is genuine, any undisputed signature, writing, or seal of the party whose signature, writing, or seal is under dispute, may be compared with the disputed one, though such signature, writing, or seal be on an instrument which is not evidence in the cause.

Comparison of hand writing.

XLIX. Any power of attorney, which has been executed at a place distant more than 100 miles from the place wherein the action, suit, or proceeding is depending, may be proved by the production of it, without further proof, where it purports on the face of it, to have been executed before, and authenticated by a Notary Public, or any Court, Judge, Consul, or Magistrate.

Authenticated power of attorney may be proved by simple production.

L. Whenever it is proved that a Letter Book is kept, and that, according to the usual course of business, letters are copied into such book and despatched, and the Letter Book is produced, and it is proved that the letter was despatched according to the usual practice, to the best of the knowledge and belief of the witness, having reasonable ground for forming that belief, the Court may presume the despatch of that letter according to the usual course of business.

Dispatch of letter may be proved be production of letter book.

LI. Any book proved to have been kept for making the despatch and receipt of letters, containing an entry of the despatch of a letter, and an acknowledgment of the receipt of such letter, shall, on proof that such entry was made in the usual course of business, be *primâ facie* evidence of the receipt of such letter.

Receipt of letter may be proved primâ facie by production of letter receipt book.

LII. So much of Section VI of Act XV. of 1852 as provides that every such application as therein mentioned shall be made before issue joined in any such action, or twenty-one days before the trial or hearing of any other legal proceeding as therein mentioned, is hereby repealed.

Act XV. 1852, Sec. 6, repealed.

LIII. The provision contained in the 16th Section of Act VI. of 1854, that affidavits of particular witnesses, or affidavits as to particular facts or circumstances, may, by consent of the parties, or by leave of the Court obtained upon notice, be used in the hearing of any cause on the Equity side of the Supreme Courts, shall extend to all civil actions, suits, and proceedings on all sides of the Courts.

Act VI, 1854, Sec. 16, 17 extended to all civil proceedings.

LIV. So much of the 17th Section of the same Act as provides that, upon the hearing of any motion, petition, or other proceeding in any of the said Supreme Courts, the Court may, upon the application of any of the parties thereto, or of its own accord, require and enforce the attendance and oral examination before itself of any witness or of any party to the suit, and may also require and enforce the production of any document or documents, and may direct the costs of the attendance and examination of such witness or party to be paid by such of the parties to the suit, or in such manner as it may think fit, shall extend to all civil actions, suits, and proceedings on all sides of the said Courts.

LV. The 33rd Section of the Act No. VI. of 1854, which applies only to proof of accounts on the Equity side of the said Supreme Courts, shall extend to and embrace all accounts directed to be taken on any side of the said Courts.

Act VI, 1854, Sec. 33, extended to accounts on all sides of the Court.

LVI. Whenever by any Statute or Act, Regulation or Ordinance now in force, or any Statute or Act to be hereafter in force, any Certificate, certified copy, or other document, shall be receivable in evidence of any particular in any Court of Justice, the same, if it is substantially in the form, and purports to be executed in the manner, directed by the Statute, Act, Regulation, or Ordinance which makes it evidence, shall be *primâ facie* evidence, where it is rendered admissible, without proof of any seal, stamp, signature, character, or authority, which it is directed to have, or from which it is directed to proceed.

Proof of official documents.

Improper admission or rejection of evidence shall not of itself be ground for a new trial.

LVII. The improper admission or rejection of evidence, shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court before which such objection is raised, that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.

Evidence admissible before, not to be rendered inadmissible by this Act.

LVIII. Nothing in this Act contained shall be so construed as to render inadmissible in any Court any evidence which, but for the passing of this Act, would have been admissible in such Court.

ACT No. V. OF 1855.

Recites expediency of assimilating the process of execution on all sides of the Supreme Court.

1. Abolishes process of contempt to compel performance of certain orders.

2. Substitutes for it a fi. fa. or ca. sa., except in case of fine for a criminal offence.

3. Points out how the Sheriff shall deal with the money levied.

4. Substitutes an Officer of the Court to do certain acts in default of parties ordered.

5. Dispenses in some cases with performance of the act ordered.

6. Empowers the Court to order the Sheriff to carry into execution decrees for possession, &c.

7. Repeals Secs. 1 and 2 of Act XXV. of 1841.

8. Retains the process of contempt for those cases in which the order cannot be otherwise enforced.

9. Empowers the Court to frame new writs of execution.

10. Interprets the words "party" and "person" and "Supreme Court."

11. Act to commence from 1st May 1855.

An Act to assimilate the process of Execution on all sides of Her Majesty's Supreme Courts, and to extend and amend the provisions of Act XXV. of 1841.

Recites expediency of assimilating the process of execution on all sides of the Supreme Court.

WHEREAS it is expedient to make the process of execution on all sides of Her Majesty's Supreme Courts as near as may be the same; and also to extend and amend the provisions for giving effect to the decrees and orders of Her Majesty's Supreme Courts in certain cases which are contained in Act No. XXV. of 1841; It is enacted as follows—

Abolishes process of contempt to compel performance of certain orders.

I. No process of contempt shall issue to compel the performance of so much of any judgment, decree, sentence, or order, either decretal or interlocutory, made by any of Her Majesty's Supreme Courts, as directs any person to pay any money or costs, or to execute any conveyance or other deed or instrument, or to make any transfer or surrender, or to do any act which a constituted attorney of such person, if ordered by the Court to do the same for his principal, would have the means of performing.

Substitutes for it a fi. fa. or ca. sa., except in case of fine for a criminal offence.

II. Where any person is liable to pay any money or costs upon a judgment recovered against him in any of the said Courts, or has made default in the payment of any money or costs which by any order, decree, or sentence made in any proceeding by any of the said Courts on any side thereof, he has been ordered to pay, execution may be issued either against his person by a writ in the nature of the ordinary writ of *Capias ad Satisfaciendum*, or to levy such money or costs out of his property by a writ of *Fieri Facias* or *Venditioni Exponas*, according to the course and practice of the rules and orders to be made for giving effect to the provisions of this Act. Provided that nothing herein contained shall extend to a fine unpaid for a criminal offence, or alter the mode of compelling the payment of such fine.

Points out how the the Sheriff shall deal with the money levied.

III. The Sheriff shall pay the money which he may levy under any execution, either to the party named in the writ in satisfaction of his demand, or into Court according to the exigency of the writ which shall be in conformity with the order under which the money is payable.

Substitutes an Officer of the Court to do certain acts in default of parties ordered.

IV. Whenever any person has been directed by any judgment, decree, sentence, or order of any of the said Courts to execute any conveyance, deed, or instrument, or to make any transfer or surrender, or to do any act which a constituted attorney of such person, if directed by the Court to do the same for his

principal, would have the means of performing; and such person has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself in order to avoid service of the judgment, decree, sentence, or order, wherein such direction is contained, or by any other means; it shall be lawful for the Court by which such direction has been given, whether the person disobeying or evading compliance with such direction is in custody or not, upon application made to the said Court for that purpose, and upon proof to its satisfaction of such default or evasion as aforesaid, to order or appoint the Registrar, Master, or other officer of the said Court to execute such coveyance, deed, or instrument, or to make such transfer or surrender, or to do such other act as aforesaid, for and in the name of the person by whom the same ought to have been executed, made, or done: and every conveyance, deed, and instrument which shall have been executed, and every transfer and surrender which shall have been made, and every other act which shall have been done by an officer of Court under the authority of this Act, shall in all respects have the same force and validity as it would have, if it had been duly executed, made, or done by the persons for and in whose name it shall have been so executed, made, or done.

Or in certain cases to dispense with the execution of an instrument or the signature of a writing.

V. If it shall appear to any of the said Courts, upon an application made to it under this Act, that it can safely dispense with the formal execution of any conveyance, deed, or instrument which the person directed to execute the same has failed to execute, or with the signature of any writing required for the formal performance of any act required to be done but omitted to be done by the person directed to do the same, it shall be lawful for the said Court, in lieu of ordering its officer to execute the said conveyance, deed, or instrument, or to sign the said writing, by its order to declare that such conveyance, deed, instrument or writing shall be as valid and effectual to all intents and purposes without the execution or signature of the person directed to execute or sign the same, as it would have been if he had duly executed or signed the same.

The Court may enforce delivery of immoveable property or any specific chattel, or the deposit of any books, papers, or other articles or things, by seizure.

VI. When any person has been directed, by any judgment, decree, sentence, or order of any of the said Courts to deliver up possession of any immoveable property or of any specific chattel or security, or to deliver to any person or persons, or to deposit in Court or elsewhere any books, papers, writings, or other articles or things, and has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself to avoid service of the said judgment, decree, sentence, or order, or by any other means, it shall be lawful for the Court by which such direction has been given, whether such person is in custody or not, on proof of such default or evasion as aforesaid, to issue a writ or writs to the Sheriff, directing him either to put the party therein named into possession, or to seize and take such chattel, security, books, papers, writings, or other articles or things, and to deal with the same according to the exigency of the writ, which in all cases shall be conformable to the order, to compel the performance whereof the same is issued. But nothing herein contained shall authorize the Sheriff to disturb the *bonâ fide* possession of any person other than the person against whom such order is made.

Proviso.

Repeal of 1st and 2nd Sections of Act XXV. of 1861.

VII. The first and second Sections of Act No. XXV. of 1841, except as to all proceedings which shall have been had or commenced thereunder before this Act comes into operation, are hereby repealed.

Power reserved to issue process of contempt to compel obedience to orders which cannot be otherwise enforced.

VIII. Nothing in this Act contained shall prevent any of the said Courts from issuing process of contempt, according to its present course of practice, on its Equity side against the person of any party who has been ordered to do any act other than the payment of money or costs, or the execution of any conveyance, deed, or other instrument, if obedience to such order cannot otherwise be enforced, or against the person of any party who has committed a breach of any injunction; and the Court may issue such process of contempt on any of its sides, and in such cases shall have and may exercise all powers which it now has touching the commitment, detention, or discharge of any person taken under process of contempt issued on its Equity side.

Court may frame writs of execution.

IX. It shall be lawful for Her Majesty's Supreme Courts to frame such new or altered writs of execution as they shall deem necessary or expedient for giving effect to the provisions hereinbefore contained, and by the Rules or Orders to be made under this Act, to regulate the mode of issuing and executing such writs of execution.

Interpretation Clause.

X. The words "person" and "party" as used in this Act shall be understood to include any body corporate, and, though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's

Supreme Courts" shall be understood to include the Court of Judicature of Princ of Wales' Island, Singapore, and Malacca.

Commencement of the Act.

XI. This Act shall take effect from the 1st day of May next.

ACT No. VI. OF 1855.

1. Sheriff under any writ of fi. fa. may seize and sell any immoveable property whether the judgment debtor's interest in it be legal or equitable.

When Judgment debtor is in possession, Sheriff to put purchaser in possession.

When Judgment debtor not in possession, Sheriff not to seize, but to sell debtor's interest.

If property be in the Mofussil, Sheriff to notify sale to the Zillah Judge, who shall have it proclaimed.

If the property be in the Mofussil and immoveable, Sheriff shall publish the notice of sale in the Collector's Office for different lengths of time according to distance.

2. In what case judgment debt may be raised by mortgage instead of sale.

3. Sheriff under any writ of fi. fa. may seize money, bank notes, &c., and pay sum to execution creditor, and by order of Court shall endorse over, and without such order hold cheque, bill of exchange &c., and sue in his own name for amount secured by bill of exchange, &c., or for debts. Sheriff how to be indemnified.

4. Sheriff may receive interest on Government Security seized by him, and may sell, or, if necessary, endorse such security.

5. No debt to be sold by Sheriff.

6. Shares in a Public Company may be charged with payment of the amount due in execution, subject to application of person affected thereby.

7. Property standing in name of any Officer of Court may also be so charged.

8. Party arrested under ca. sa., entitled to discharge on payment or tender of the amount of the levy to opposite party or his attorney or to Sheriff or Jailor.

9. Written order of attorney issuing ca. sa., sufficient for the discharge of a party by Sheriff or Jailor, unless the client shall give written notice to the contrary. Attorney not to give order for discharge without consent of client.

10. Sheriff not to be liable for escape, &c., beyond the loss really occasioned.

11. Writ of execution, if unexecuted, not to remain in force for more than one year, unless renewed. Renewed writ entitled to same priority as its original. Writ of Habere facias not to be renewed without special leave.

12. Production of writ or of notice of renewal sufficient evidence of renewal.

13. Under writ of sequestration all property may be seized as under fi. fa. Sum to be levied may be levied as under fi. fa.

An Act to extend the operation of, and regulate the mode of executing, Writs, of Execution in Her Majesty's Supreme Courts of Judicature.

Preamble.

WHEREAS it is desirable to extend the operation of, and regulate the conduct of writs of execution out of Her Majesty's Supreme Courts in certain cases; It is enacted as follows :—

Sheriff under any writ or *fieri facias* may seize and sell any immoveable property whether the interest be legal or equitable.

I, *Clause* 1. Under any writ of *fieri facias* issued out of any of Her Majesty's Supreme Courts, on any side of the Court, may be seized and sold any lands, houses or other immoveable property of the party against whose effect such writ issues, whether his estate or interest therein be legal or equitable.

When property is in possession of judgment debtor, Sheriff to put perchaser in possession.

Clause 2. The Sheriff under any such writ may put the purchaser in possession of such of the lands, houses or other immoveable property sold under such writ, of which the judgment debtor is in the actual possession, and of which an actual delivery can be made.

Otherwise. Sheriff not to seize but to sell debtor's interest.

Effect of conveyance.

Clause 3. If the lands, houses or other immoveable property liable to be sold under such writ be in the possession of any person other than the Judgment debtor, the Sheriff shall not seize such property, but shall sell and convey all the right, title and interest of the debtor; and such conveyance shall pass the same interest to the purchaser as if the same had been executed by the debtor.

Clause 4. In such last mentioned case if the property shall be situate beyond the local limits of the jurisdiction of such Court, the Sheriff shall notify such sale to the Judge of the District, who shall cause notice of the same to be officially proclaimed, in like manner as if the sale had been effected under a decree of his own Court.

Sale when to be notified to Judge of the District.

Proclamation of sale.

Clause 5. In any case of intended sale of immoveable property beyond the local limits of the jurisdiction of such Supreme Court, the Sheriff shall cause a notice specifying the time and place of the intended sale, to be stuck up in some conspicuous place in the office of the Collector of the district within which such property is situate and also at the Mal Cutcherry of the estate, if any; otherwise, on some conspicuous part of the property to be sold. The number of days between the publication of such notice and the sale shall not be less than fourteen days, if the property be not distant more than 100 miles, from the Supreme Court; if the distance shall exceed 100 miles, the number of days shall be increased by an additional day for every 50 miles of such excess of distance. Provided that the want of such notice or any irregularity in respect thereof, shall not vitiate the sale in the hands of a *bonâ fide* purchaser.

Notice of sale when to be published in the office of Collector, &c.

Length of time for publication of notice.

Proviso.

II. If any lands, houses, or other immoveable property be seized or liable to be sold under any such writ, it shall be lawful for the Court, on application to it on behalf of the execution debtor or of any one of several execution debtors, if the Court shall be satisfied that there is reasonable ground to believe that the amount of the judgment may be raised by mortgage of the estate, to postpone the sale for a term not exceeding one month to enable the defendant to raise the amount, and to direct that the money ordered to be levied by such execution shall be raised by mortgage instead of sale of such lands, houses or other immoveable property, upon such terms as to the payment of interest upon the judgment or otherwise as the Court may thing fit and in such case to give all necessary directions for the execution of such mortgage.

In what case judgment debt may be raised by mortgage instead of sale.

III. Under any such write of *fieri facias* myy also be seized money, banknotes, cheques, bills of exchange, promissory notes, hoondees, Government securities, bonds or other securities for money and also debts belonging to the said person; and the Sheriff or other officer having the execution of the writ shall be at liberty to pay or deliver over to the party suing out such execution, any money or bank-notes which shall so be seized, or a sufficient part thereof, and shall, with the order of the Court, endorse over or transfer, and without such order, shall hold any such cheques, bills of exchange, promissory notes, hoondees, bonds, or other securities for money as a security or securities for the amount by such writ of *fieri facias* directed to be levied, or so much thereof as shall not have been otherwise levied and raised, and may, where he retains the same, sue in his own name as such Sheriff or officer, for the recovery of the sum or sums secured thereby, or for any debt seized as aforesaid, when the time of payment thereof shall have arrived; and the payment to such Sheriff or other officer, or to the party entitled under such endorsement or transfer, by the party liable, with or without suit, or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment or of such recovery and levy in execution as the case may be, from his liability on any such cheque, bill of exchange, promissory note, hoondee, bond, security, and debt; and such Sheriff or other officer shall pay over to the party suing out such writ, the money so to be recovered or such part thereof as may be sufficient to discharge the amount by such writ directed to be levied; and if, after satisfaction of the amount so to be levied together with Sheriff's poundage and all lawful charges and expenses, any surpuls shall remain in the hands of such Sheriff or other officer, the same shall be paid to the party against whom such writ shall be so issued, unless the same is duly attached in the hands of such Sheriff or other officer. Provided that no Sheriff or other officer shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, hoondee, bond, security, or debt, unless the party suing out such execution shall give security to the Sheriff for indemnifying him from all costs and expenses to incurred in the prosecution of such action, or to which he may become liable in consequence thereof; the nature and amount of such security to be determined, in case they cannot agree, by the proper officer of the Court in which such action shall be brought, or if the Court shall so order, by some other person to be appointed by the Court for such purpose; and the expense of preparing and executing such security shall be deducted out of any money to be recovered in such action, and the net proceeds only in this and other cases provided for by this Act shall be considered as received in satisfaction of the debt due to the execution creditor.

Sheriff empowered under any such writ of *fierifuciias* to seize money, banknotes, etc.

And to pay money or banknotes to execution creditor.

And with the order of the Court to endorse over, and without such order to hold cheques, bills of exchange, etc.

And to sue in his own name for amount secured by bills of exchange etc.

Or for debts,

Proviso as to indemnity for Sheriff.

IV. If the Sheriff or other officer under any writ of *fieri facias* shall seize any Government security standing in the name of, or belonging to, the party

Sheriff empowered to receive interest on

Government security seized by him.

And to sell, and where endorsement necessary, to endorse such security.

against whose property such writ shall be issued, he shall have power to receive the interest due on such Government security, whether specially endorsed or otherwise, and to sign a receipt for the same ; and also to sell and dispose of such Government security through a broker at the market rate of the day ; and if the endorsement of such party shall be required to transfer such Government security, the Sheriff or other public officer shall endorse the same thus, "A. B. by C. D. Sheriff ;" and such endorsement shall be as effectual to pass the said Government security and to give a good title to the holder thereof as if the same had been endorsed by the party himself or his duly constituted attorney.

No debt to be sold by Sheriff.

V. No debt shall be sold by the Sheriff under the process of the said Court, any Charter of any of the said Supreme Courts to the contrary notwithstanding ; but the same shall be realized in the mode hereinbefore directed.

Shares in public Company may be charged in execution.

VI. If any person against whom any writ of execution shall have issued shal-have any interest in any stock or shares in any public Company, whether incorporated or not, carrying on business in India and within the reach of the process of the Court out of which such writ of execution has issued, it shall be lawful for the said Court or for any Judge thereof, on the application of the party who has sued out such writ of execution, to make an order *ex parte* that such interest in such stock or shares, or such of them or such part thereof respectively as the said Court or Judge shall think fit, shall stand charged with payment of the amount due in respect of such writ of execution ; and such order shall have the like effect and entitle the person in whose favor the same is made to the same remedies and priorities as a charge executed in favor of such person by the person against whom execution shall have been issued ; and service or notice of such order upon or to the public Company whose stock or shares aret he subject of such order, or upon or to any person claiming an interest in such stock or shares, shall have like effect and shall entitle the person in whose favor such order is made to the same remedies against such public Company or such last mentioned person as notice of a charge executed of even date with such order by the person against whom execution shall have been issued in favor of the person at whose suit the same shall have been issued. Provided that nothing herein contained shall prevent the person against whom such order shall have been made, or any other person affected thereby, from applying to the Court or Judge by whom such order has been made for its discharge on such grounds as may be just.

Proviso.

Property standing in name of any officer of Court.

VII. If such debtor shall have any interest in any property which shall be standing in the name of the Accountant General of the Court or of any other officer of the Court, or in the dividends, interests or annual produce thereof, it shall be lawful for the Court or a Judge to make an order that the interest of the defendant in such property shall be applied in payment of such debt, and the Court or Judge shall have power to make such order as may be necessary to give full effect to the above provision.

Party arrested entitled to discharge on payment or tender of the amount of levy to opposite party or his Attorney, or to Sheriff or Gaoler.

Written order of attorney sufficient for the discharge of a party by Sheriff or Gaoler, unless the client have given written notice to the contrary.

Attorney not justified in giving order for discharge without the consent of his client.

VIII. A plaintiff or defendant arrested under any writ of *capias ad satisfaciendum* issued upon any judgment, order, decree or sentence of any of the said Courts whereby money is ordered to be paid to any party, shall be entitled to his discharge from such arrest on payment or tender to such party or his attorney in the cause, or to the Sheriff or Gaoler in whose custody such person may be under such writ, of the amount directed to be levied by such writ.

IX. A written order under the hand of the attorney in the cause by whom any writ of *copies ad satisfaciendum* shall have been issued, shall justify the Sheriff, Gaoler, or person in whose custody the party may be under such writ in discharging such party, unless the party for whom such attorney professes to act shall have given written notice to the contrary to such Sheriff, Gaoler, or person in whose custody the opposite party may be ; but such discharge shall not be a satisfaction of the debt, unless made by the authority of the creditor ; and nothing herein contained shall justify any attorney in giving such order for discharge without the consent of his client.

Sheriff not to be liable for escape, etc. beyond the amount of the loss really occasioned.

X. A Sheriff shall not be liable in an action for escape or other breach of duty, to pay damages beyond the amount of the loss which his breach of duty has really occasioned.

Writ of execution, not to remain in force more than a year unless renewed.

But may be renewed from time to time.

XI. A writ of execution sued out after the commencement of this Act, if unexecuted, shall not remain in force for more than one year from the date of such writ unless renewed in the manner hereinafter provided ; but a writ of execution, whether sued out before or after the passing of this Act, may, at any time before its expiration, be renewed by the party issuing it for one year from the date of such renewal, and so on from time to time during the continuance of the renewed writ, by being marked with the seal of the Court and with a memorandum, signed by

the officer, of the date of the day, month and year of such renewal, or by such party giving a written notice of renewal to the Sheriff signed by the party or his attorney and bearing the like seal of the Court and memorandum signed by the officer as aforesaid; and a writ of execution so renewed shall have effect and be entitled to the same priority as the original writ would have had. Provided however that no writ of *habere facias possessionem* shall be renewed without the special leave of the Court or a Judge.

Renewed writ entitled to same priority as its original.

Proviso.

XII. The production of a writ of execution or of the notice renewing the same, purporting to be marked with such seal and signed as aforesaid, showing the same to have been renewed according to this Act, shall be sufficient evidence of its having been so renewed.

Production of Writ or of notice of renewal sufficient evidence of renewal.

XIII. All property of every kind that may be seized under a writ of *fieri facias*, issued from the said Supreme Courts respectively may be seized also under a writ of sequestration duly issued from the same, and the seizure must in all cases be made in the mode directed by this Act as to seizures under writs of *fieria facias*, and any sum ordered by the Court to be realized by a sequestration shall be realized in the same mode, and not otherwise, as if directed to be levied under a writ of *fieri facias*.

Under a writ of sequestration all property may be seized in like manner as under a *fi. fa.*

Sum ordered to be realized may be levied as under a *fi. fa.*

XIV. The words "person" and "party" as used in this Act shall be understood to include any body corporate, and though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's Supreme Courts" shall be understood to include the Court of Judicature of Prince of Wales' Island Singapore, and Malacca.

Interpretation Clause.

ACT No. VII. OF 1855.

1. Arrest on mesne process not to take place without order of Judge, Granting of order to be discretionary.

2. No order for arrest to be made wihout affidavit of debt or damage to Rupees 200, and probable cause for believing either.

That defendant is concealing himself, or about to abscond, &c., or that he is removing his property, or disposing of it.

3. Order of arrest may be made at any stage of the cause.

4. Before making order, Court may examine plaintiff, &c.

5. Copy of affidavit to be given to Sheriff and to be delivered to defendant at time of arrest.

6. Person arrested may apply to Court or Judge for his discharge, and shall be discharged if plaintiff delay after arrest. Court may discharge Judge's order.

7. If motions for discharge be made on affidavit, plaintiff may oppose by further affidavit.

8. At the hearing, Court may compel attendance of parties or witnesses, and of persons in custody on Civil process.

9. Persons now in custody on mesne process to be entitled to discharge on entering common appearance. Proviso.

10. Subsistence money to be deposited before arrest on mesne or final process or by attachment—amount and application thereof—various provisions regarding it.

11. Order of discharge to be sufficient authority for sheriff or jailor as to that suit, but prisoner not to be discharged without certificate from proper officer of Court

12. Keeper of prison to report to the Court the name of any prisoner unable to maintain himself and complaining of unjust arrest.

13. Order under this Act to be sufficient justification to sheriff, &c.

14. Construction of Act-

15. Act not to affect rules of Court not inconsistent therewith, or provisions of Insolvent Debtors' Act.

16. What shall be the equivalents for dollars and cents in the application of this Act to the Straits' Settlements.

An Act to amend the law of arrest on mesne process in Civil Actions in Her Majesty's Court of Judicature, and to provide for the subsistence of Prisoners confined under Civil process of any of the said Courts.

Preamble.

WHEREAS it is expedient to amend the law of arrest in the Supreme Courts of Judicature at Fort William in Bengal, Fort St. George, and Bombay, and in the Court of Judicature of Prince of Wales' Island, Singapore and Malacca; It is hereby enacted as follows :—

No arrest upon mesne process without order of Court or judge.

Granting of order to be discretionary.

I. No person shall be arrested or held to bail upon mesne process in any action at law now pending or which shall be commenced in any of the said Courts, unless an order authorizing such arrest be made by the Court in which the action is pending or shall be commenced, or by one of the Judges thereof: and it shall be in the discretion of the Court or Judge in any case to grant or refuse an order.

No order for arrest to be made without affidavit of debt or damage to the amount of 200 Rupees and probable cause for believing—

That defendant is concealing himself or about to abscond, &c.

That he is removing his property.

II. Provided that no such order shall be made unless the Court or Judge shall be satisfied by affidavit of the plaintiff or of some other person, that the plaintiff has a good cause of action against the defendant to the amount of two hundred rupees or upwards, either for debt or for damages, and in addition thereto, that there is probable cause for believing—

1,—That the defendant has absconded or is concealing himself for the purpose of avoiding service of the process of the Court, or that he is about so to do, or—

2,—That he has withdrawn or is about to withdraw himself or his property or effects, or some part thereof, from the jurisdiction of the Court, for the purpose of avoiding the process of the Court, or under such other circumstances as to induce the Court or Judge to believe that the ends of justice are likely to be defeated unless a capias or warrant of arrest be issued against him, or—

That he has disposed or means to dispose of his property.

3,—That he has removed, concealed or disposed of his property or effects, or some part thereof, for the purpose of defrauding his creditors generally or the plaintiff in the action, or that he is about to do so.

Order for arrest in any stage of cause and against one of several defendants.

III. An order for arrest may be made, and a capias or warrant may be issued thereon, in any stage of the cause before final judgment, and against one or more of several defendants.

Before making order Court may examine plaintiff or other person.

IV. Previously to making such order, the Court or Judge may require the personal attendance of the plaintiff, and of any person who shall make an affidavit for the purpose of obtaining such order, and of any other person whom the Court or Judge shall think fit to examine, and may examine them orally upon oath.

Copy of affidavit to be delivered to Sheriff and to be given to defendant at the time of arrest.

V. A copy of every affidavit upon which such order shall be founded shall be delivered to the Sheriff with the writ or warrant to be issued in pursuance of the order, and shall be delivered to the defendant at the time of his arrest or detention under the writ, otherwise the Court or Judge may order the defendant to be discharged.

Person arrested may apply to Court or Judge for his discharge.

VI. Any person arrested or detained upon any such Writ of Capias or Warrant of Arrest may apply to the Court, or to a Judge thereof, for a rule or summons calling on the plaintiff to show cause why the person arrested should not be discharged out of custody, and the Court may make absolute or discharge such rule, and direct the costs of the application to be paid by either party, or may make such order as to the Court shall seem fit; and in the case of a summons, a Judge shall make such order thereupon as he shall think fit. Provided that such rule shall be made absolute, or, in the case of a summons, an order for the defendant's discharge out of custody shall be made, in every case in which the Court or Judge shall be satisfied that the plaintiff, in any stage of the cause subsequent to the arrest, has been guilty of unreasonable delay in pleading or in bringing on for trial or argument any issue of fact or law, notwithstanding the delay may not be such as to entitle the defendant to sign judgment of Non Pros., or to apply for judgment as in case of a nonsuit; and provided also, that any order made by a Judge under this Act may be discharged or varied by the Court on application made thereto by either party dissatisfied with the order.

Person arrested to be discharged if plaintiff is guilty of delay after arrest.

Judges order may be discharged etc., by Court.

If motion for discharge be made upon affidavit, plaintiff may oppose it by further affidavits.

VII. If any motion or application for the discharge of a defendant be made upon affidavit, but not otherwise, the plaintiff may oppose the same by affidavits in addition to that upon which the order for the arrest was made.

At the hearing of the motion, Court may compel attendance of the parties or witnesses.

VIII. The Court or Judge may order and compel the personal attendance at the hearing of any motion or summons of both or either of the parties, and also of any other person whom the Court or Judge shall think fit to examine, and may examine such person or persons orally upon oath, or may allow him or them to be examined and cross-examined upon oath, and the Sheriff or Gaoler shall be bound to bring before the Court or Judge any prisoner detained in his custody on civil process, whose attendance may be so ordered.

IX. Every person now in custody upon mesne process issued out of any of the said Courts of Judicature for any debt or demand, and who shall not have filed a petition to be discharged under the laws in force for the relief of Insolvent Debtors in India, shall be entitled to his discharge at the expiration of one month from the time of the passing of this Act, upon entering a common appearance to the action. Provided nevertheless, that every such prisoner shall be liable to be detained, or after such discharge to be again arrested, by virtue of any writ of capias or warrant of arrest issued in pursuance of the provisions of this Act.

Persons now in custody on mesne process how entitled to their discharge.

Proviso.

X. *Clause* 1.—The person at whose suit any such mesne process, or any writ of execution for the arrest of a defendant, or any writ or attachment for the arrest of any person for the non-payment of money in the nature of Civil process shall be issued out of any of the said Courts, shall, previously to the arrest being made, deposit with the Sheriff or other officer to whom such mesne process or writ shall be delivered for the purpose of executing the same, a sum of money sufficient to provide for the subsistence of the defendant for the period of thirty days, at the rate of four annas a day, which sum, or so much thereof as shall be necessary, shall be applied by the Sheriff or other officer for the subsistence of the person arrested from the time of the arrest until he shall be lodged in gaol, and the balance, if any, shall be deposited, by such Sheriff or other officer, with the keeper of the gaol to which the person arrested shall be committed.

Deposit of subsistence money before arrest on mesne or final process or by attachment.

Clause 2.—The Sheriff or such other officer by whom an arrest shall be made by virtue of any such writ or process, shall, before or forthwith after the defendant shall be lodged in gaol, give notice of the arrest, and of the date on which the same was made, to the plaintiff or his attorney.

Sheriff to give plaintiff notice of arrest.

Clause 3.—The person at whose suit such mesne process, writ of execution or attachment shall be issued, shall, at or before the end of thirty days from the date of the arrest, or within a reasonable time after he shall have had notice of the arrest, if he shall not have had notice thereof within such period of thirty days, deposit with the Sheriff or with the keeper of the prison in which the person arrested shall be lodged, a further sum at the rate aforesaid for the subsistence of the prisoner for the next ensuing thirty days, and shall continue to make a similar deposit in advance at or before the end of such period of thirty days and of every subsequent period of thirty days, during which the prisoner shall be detained in custody, and for every such deposit the Sheriff or keeper of the gaol, or other officer as the case may be, shall give a receipt for the same dated on the day on which the money shall be paid.

Further deposit of subsistence money after the arrest and during detainer.

Receipt for deposit.

Clause 4.—It shall be lawful for the Court out of which any such writ shall issue, or for any Judge thereof, to reduce the rate at which deposits are above ordered to be made, so that the rate ordered be not less than one anna a day, or in case of illness or other special cause to order the deposit to be increased to a rate not exceeding eight annas a day; and every such order may from time to time be revised and altered by the Court or any Judge thereof, on sufficient grounds being shown.

Rate of deposit may be varied by Court out of which writ issues.

Clause 5.—If the deposit required to be made previously to the arrest be not made, no arrest shall be made. If any deposit hereby required to be made after the arrest, be not made on or before the day on which it ought to be made, the Court may, upon the application of the prisoner, order him to be discharged out of custody.

Deposit must be made before arrest.

Person arrested to be discharged if subsequent deposit not duly made.

Clause 6.—If any prisoner in execution be discharged out of custody by reason of a failure to make such deposit as aforesaid, the imprisonment shall not extinguish or affect his liability to pay the amount of any sum of money for which he was arrested, or to prevent any execution from being issued against his property.

Such discharge of a prisoner in execution not to affect his liability.

Clause 7.—The provisions of this Act are to be held applicable to all persons at present in confinement under Civil process, so far as relates to the deposit to be made in future by the parties at whose instance they are confined, and to their immediate discharge on failure to make such deposit on or before the day on which it becomes due—The first deposit to be made within thirty days after the passing of this Act.

Provisions of these clauses to whom applicable.

Clause 8.—The money so deposited shall be employed for the subsistence of the prisoner.

Deposit to be applied for subsistence of prisoner.

Clause 9.—The amount spent in providing subsistence for a prisoner detained upon mense process shall be costs in the cause.

Amount spent in subsistence of prisoner detained on mesne process to be costs in the cause.

Clause 10.—The amount spent in providing subsistence for a prisoner detained in execution shall be added to the amount of the judgment, and the pri-

Amount spent in subsistence of prison-

er detained in execution to be added to the judgment.

Amount spent in susistence of persen detained under attachment shall be deemed part of the demand.

Return of unspent deposit money.

soner shall be liable to be detained in execution for the amount, in the same manner as if such amount had been included in the judgment and writ of execution

Clause 11.—The amount spent in providing subsistence for any person detained under any such writ of attachment as aforesaid, shall be deemed part of the demand in respect of which the attachment was issued, and shall subject the prisoner to the same liability as if the attachment had been issued for the non-payment thereof to the person making the deposit.

Clause 12.—All money deposited as aforesaid, which shall not have been spent at the time of the prisoner's discharge from custody, shall be returned to the person who made the deposit.

Effect of order for discharge of prisoner.

Proviso.

XI. Any order of the Court or of a Judge for the discharge of a prisoner under the provisions of this Act, shall be a sufficient authority to the Sheriff and Gaoler for such discharge, so far as concerns the action or suit to which such order relates. Provided that, when an order shall be made for the discharge of a prisoner upon his entering a common appearance, such discharge shall not be made until a certificate shall be produced to the keeper of the prison from the officer of the Court with whom appearances are entered, to the effect that an appearance has been entered according to the terms of the order.

Keeper of prison, etc., when to report to Court the name of prisoner complaining.

Service of rule etc. by Sheriff.

XII. It shall be the duty of the Sheriff and of the keeper of every prison in which any person shall be confined under any such process as above mentioned, to report to the Court out of which the process issued, the name of every prisoner confined under such process who shall appear to be unable to maintain himself in prison, or who shall complain that he has been arrested without cause, and it shall be lawful for the Court or a Judge upon any such report to cause the prisoner to be forthwith brought before them, or to make such other order as may seem fit; and the Sheriff shall be bound to serve any rule, summons or order made under this Act, which the Court or Judge shall order him to serve.

Order under this Act to be sufficient justification to Sheriff, etc.

XIII. Any rule or order made in pursuance of the provisions of this Act shall be a sufficient justification for any Sheriff, Gaoler or other Officer for any act which he may do in pursuance thereof.

Construction of Act.

XIV. In the construction of this Act, the word "affidavit" and the word "Oath" shall include affirmation in cases where "Affirmation" is allowed instead of an oath, and unless there is anything in the context repugnant to such a construction; words in the singular number shall include the plural, and words in the masculine gender shall include females.

Act not to affect rules of Court not inconsistent herewith, or provisions of Insolvent Debtors's Act.

XV. Nothing in this Act is intended to alter or affect any rule in force in any of the said Courts, not inconsistent herewith, or any of the provisions of the Act in force for consolidating and amending the law relating to Insolvent Debtors in India.

Equivalents for dollars and cents in the application of Act to the Straits Settlement.

XVI. In the application of this Act in the Settlement of Prince of Wales' Island, Singapore and Malacca, a dollar shall be deemed equal to two rupees and one-fifth of a rupee, and three cents shall be deemed equal to one anna.

ACT No, XI. OF 1855.

1. *No person to be chargeable with rent bonâ fide paid to a holder under defective title.*
2. *Value of improvements made by bonâ fide holders under defective titles secured to them. Value to be estimated.*
3. *Act to apply only to cases governed by English Law.*

An Act relating to mesne profits and to improvements made by holders under defective titles in cases to which the English law is applicable.

WHEREAS it is expedient, in cases to which the English law is applicable, to limit the liability for mesne profits, and to secure to *bonâ fide* holders under defective titles the value of improvements made by them; It is enacted as follows:—

I. No person shall be chargeable with any rents or profits of any immoveable property which he has *bonâ fide* paid over to any person of whom he *bonâ fide* held the same, notwithstanding it may afterwards appear that the person to whom such payment was made had no right to receive such rents or profits.

II. If any person shall erect any building or make an improvement upon any lands held by him *bonâ fide* in the belief that he had an estate in fee simple, or other absolute estate, and such person, his heirs, assigns, or his or their under-tenants, be evicted from such lands by any person having a better title, the person who erected the building or made the improvement, his heirs or assigns, shall be entitled either to have the value of the building or improvement so erected or made during such holding and in such belief, estimated and paid or secured to him or them, or, at the option of the person causing the eviction, to purchase the interest of such person in the lands at the value thereof, irrespective of the value of such building or improvement. Provided that the amount to be paid or secured in respect of such building or improvement shall be the estimated value of the same at the time of such eviction.

III. Nothing in this Act contained shall extend to any case to which the English Law is not applicable.

ACT NO. XII. OF 1855.

1. Executors may sue and be sued in certain cases for wrongs committed in the life-time of a deceased person.

2. Death of either party not to abate suit.

An Act to enable Executors, Administrators or Representatives to sue and to be sued for certain wrongs.

WHEREAS it is expedient to enable Executors, Administrators or Representatives in certain cases to sue and be sued in respect of certain wrongs which, according to the present law, do not survive to or against such Executors, Administrators or Representatives ; It is enacted as follows :—

I. An action may be maintained by the Executors, Administrators or Representatives of any person deceased, for any wrong committed in the life-time of such person, which has occasioned pecuniary loss to his estate, for which wrong an action might have been maintained by such person, so as such wrong shall have been committed within one year before his death, and provided such action shall be brought within one year after the death of such person ; and the damages, when recovered, shall be part of the personal estate of such person ; and further, an action may be maintained against the Executors or Administrators or Heirs or Representatives of any person deceased for any wrong committed by him in his life-time for which he would have been subject to an action, so as such wrong shall have been committed within one year before such person's death, and so as such action shall be commenced within two years after the committing of the wrong : and the damages to be recovered in such action shall, if recovered against an Executor or Administrator bound to administer according to the English Law, be payable in like order of administration as the simple contract debts of such person.

II. No action commenced under the provisions of this Act shall abate by reason of the death of either party, but the same may be continued by or against the Executors, Administrators or Representatives of the party deceased. Provided thatin any case in which any such action shall be continued against the Executors, Administrators, or Representatives of a deceased party, such Executors, Administrators or Representatives may set up a want of assets as a defence to the action either wholly or in part, in the same manner as if the action had been originally commenced against them.

ACT NO. XIII. OF 1855.

1. Action for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.

2. Not more than one action to be brought: to be commenced within 12 months. Claim for loss to the Estate may be added.
3. Plaintiff shall deliver particulars, &c.
4. Construction of Act.

An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

WHEREAS no action or suit is now maintainable in any Court against a person, who, by his wrongful act, neglect or default, may have caused the death of another person, and it is often times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him; It is enacted as follows :—

Action for compensation to the family of deceased for loss occasioned to it by his death by actionable wrong.

I. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action aud recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime. And it is enacted further, that every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the Executor, Administrator or Representative of the person deceased; and in every such action, the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered, after deducting all costs and expenses, including the cost not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

Not more than one action to be brought: to be commerced within 12 months. Claim for loss to the estate may be added.

II. Provided always, that not more than one action or suit shall be brought for, and in respect of the same subject matter of complaint, and that every such action shall be brought within twelve calendar months after the death of such deceased person; provided that, in any such action or suit, the Executor, Aministrator or Representative of the deceased may insert a claim for, and recover any pecuniary loss to the Estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the Estate of the deceased.

Plaintiff to deliver particulars, etc.

III. The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Interpretation Clause

IV. The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject matter, that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things, and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate: and the word "parent" shall include father and mother, and grand-father and grand mother; and the word "child" shall include son and daughter, and grand-son and grand-daughter and step-son and step-daughter.

ACT No. XVIII. OF 1855.

1. Executive Government of a Presidency declared to have power to grant pardons for offences committed therein, or to remit punishment awarded by Supreme Court of Judicature or any other Court, &c., in respect of such offences.
2. Act not to affect the provisions of the Statutes empowering the Governor General in Council to limit the authority of Lieutenant-Governors, &c. The power of granting pardons, &c., may byexercised by the Governor General in Council, so far as it is excepted from the authority of Lieutenant-Governors, &c.
3. Act not to interfere with the prerogative of the Crown to grant pardons.

An Act to remove doubts relating to the power to grant Pardons and Reprieves and Remissions of punishments in India.

WHEREAS doubts have arisen as to the power of the several Executive Governments in India to remit punishments awarded by Her Majesty's Supreme Courts of Judicature, and it is desirable that all doubts respecting the power to pardon or reprieve or grant remissions of punishment should be removed? It is declared and enacted as follows :—(The sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of an Act passed in the 17th year of the reign of Her said Majesty, entitled "An Act to provide for the Government of India.',)

I. The person or persons for the time being authorized to administer the Supreme Executive Government in any Presidency or place within the territories in the possession and under the Government of the East India Company have power to grant pardons and reprieves in respect of any crime or offence committed within such Presidency or place, or to remit the whole or any part of the punishment awarded in respect of any such crime or offence, whether the same be awarded by any of Her Majesty's Supreme Courts of Judicature or by any other Court or officer exercising jurisdiction within the said territories.

II. Nothing in this Act shall be construed to interfere with the provisions contained in the Statutes of the Imperial Parliament 16th and 17 Vic. Cap. 95 and 17 and 18 Vic. Cap, 77, or any other Statute, which empower the Governor General of India in Council, with the sanction therein mentioned, to limit the extent of the authority of the Lieutenant-Governors and other persons therein named ; and in every such case the aforesaid power of granting pardons and reprieves and remissions of punishment, in case and so far as the same may be excepted from the authority of the said Lieutenant-Governors or other persons, may be exercised by the Governor General of India in Council.

III. Nothing in this Act shall be construed to interfere with the undoubted right of Her Majesty to grant pardons or reprieves or remissions of punishment in any of the cases above-mentioned.

ACT XXII. OF 1855.*

1. Act I. 1852, S. XXI, Sch, C. repealed.

2. Certain Regulations and Acts to cease to be in force in any port, river or channel, declared subject to this Act.

3. Any port, river or channel having been declared subject to this Act, all the provisions herein contained shall have effect therein.

4. Declaration shall define limits of each port, &c., and such limits shall always extend to high water mark.

5. Limits of port, &c., may be altered from time to time.

6—7. Local Government to appoint a Conservator of every port, etc., and may make port rules for certain specified purposes.

8. Every declaration and order to be published in Gazette, or some other public manner.

9. Fine of Rs. 100 for any disobedience of orders.

10. Conservator may give directions for carrying into effect any port rules.

11. Penalty for disobedience to directions of Conservator. Notice of direction how to be served.

12. Vessel of 200 Tons and upwards not to be moved without having a pilot, etc., on board, nor smaller vessels without written authority from Conservators. Penalty of Rs. 200.

13. Master of vessel to permit Warps to be made fast to his vessel. Penalty Rs. 209.

14. Master not to leave Warp or hawser after sunset. Penalty Rs. 200.

15. Conservator may in case of necessity cut ropes,

16. Person causing obstruction to navigation or public nuisance, liable to fine of Rs. 100 and costs of abating nuisance.

17. Conservator may remove at owner's expense any floating timber or any obstruction on shore within the limits, of the Port.

18. Expenses of removing obstruction, etc., may be recovered as a Penalty.

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* Acts XXXI and XXXV, of 1857, and Acts II, VII, VIII, IX and XV of 1858, and Act XXV of 1860, and IV, VIII and XV of 1861—are to be read with and taken as parts of this Act. Act I. 1862 B. C. is to be read as part of this Act, also Act I. 1863 B. C. also Act II 1867 B. C. Act XVIII, 1858.

19. Conservator may remove lawful obstruction with the sanction of local Government, making compensation for damage as in case of lands taken for public purposes.

20. Penalty for injuring buoys, etc., Rs. 200 or imprisonment for 6 months.

21. Notice to be given to Conservator if any vessel gets foul of Government moorings. Penalty Rs. 100.

22. Penalty for wilfully loosening any vessel from its moorings Rs. 200 or imprisonment for 6 months.

23. Conservator may raise any wreck, etc., and after one month may recover expenses as provided for in Section 39.

24. Penalty for unauthorised discharge of ballast or rubbish likely to impede navigation, Rs. 200 and costs of removal.

25. Penalty for graving, breaming, or smoking a vessel within prohibited limits, Rs. 500.

26. Penalty for boiling pitch, etc., on board any vessel within prohibited limits Rs. 200.

27. Penalty for drawing off spirits by candle light, etc., Rs. 200.

28. Vessels above 200 Tons to be provided with a force-pump, etc., in case of fire. Penalty on Master after requisition and 7 day's delay, Rs. 500.

29—30. Vessels not to have powder, etc., exceeding 50 pounds on board. Government to fix place of deposit, and time and place of landing and shipping.

31. Master to make declaration, that he has not on board more than 50 pounds of gunpowder. Penalty for false declaration Rs. 200.

32. Officer to give receipt for gunpowder deposited and to account for it.

33. If Powder not landed on account of stress of weather, notice to be given.

34. Government may fix time and place, and manner for taking in powder for vessels outward bound.

35. Penalty for having prohibited powder, etc., on board, Rs. 200 and forfeiture of powder, etc.

36. Penalty for discharging guns, etc., Rs. 50.

37. Penalty for unauthorized persons searching for lost anchors and stores, Rs. 100.

38. Registry to be kept of all anchors, etc., recovered by Government officer and reasonable salvage to be paid for the same.

39. If property be unclaimed or salvage unpaid, the property may be sold after 6 months or forthwith if perishable.

40. Penalty for removing stones, etc., or sinking mooring posts, etc., so as to injure the shore. Rs. 100 and costs of repair.

41. No port dues or fees to be hereafter levied except under this or future Act

42.—43. Local Government may vary the port dues, but not so as to exceed the limit fixed by this or other Act.

44. District account of port dues and an abstract thereof to be kept.

45. Collector of customs to collect port dues, officer receiving dues to give signed vouchers.

46. Master to report arrival of vessel to Harbour Master within 24 hours. Penalty Rs. 100.

47. If the draft not properly marked on the vessel, Conservator may assertain it by hooking, at master's expense.

48. Conservator, if not satisfied as to tonnage of vessel, by production of egister or otherwise, may cause tonnage to be ascertained by measurement at Master's expense.

49. On refusal by Master to pay port dues, etc. the Collector may distrain. and after 5 days sell the vessel, tackle, etc.

50. Port clearance not to be granted until dues, etc., are paid.

51. Conservator, Collector, etc. may go on board any vessel when necessary for discharge of duty. Penalty for opposing entry, Rs. 200.

52. Penalty for obstructing officer in the discharge of duty, Rs. 200.

53. Harbour Master or Assistant to Conservator or Harbour Master may do all acts that Conservator himself may do, but subject to his Control.

54. Penalty for hoisting unlawful colors, Rs. 50 in addition to penalty under the Statute.

55. All offences against this Act to be punishable summarily, and penalties may be recovered either under Act II, 1839 or by distress and sale of vessel, tackle etc.

56. Magistrate may order costs and levy them as penalties.

57. Magistrate may assess damages or expenses and may levy them as penalties.

58. Costs of distress may be recovered in addition to amount levied.

59. In case of disputes, the Magistrate may determine the amount to be levied.

60. Act not to extend to Vessels of War nor to affect any private right of property nor any constant law.

61. East Indian Company not to be answerable for act or default of any Conservator, etc., except when done by express sanction.

62. Interprets the word Magistrate.

63. Any Magistrate having jurisdiction over any place adjoining the port, river, etc. to have jurisdiction over offences under this Act.

64. Conservator or justice of the peace to be guided on merits only; jurisdiction may be gathered from depositions, if not apparent on face of conviction.

65. Interprets the words local Government, Vessel, and Master.

An Act for the regulation of Ports and Port-dues.

WHEREAS it is expedient to provide for the safety of vessels, and for the convenience of traffic in the several Ports within the territories in the possession and under the Government of the East India Company, and in navigable Rivers and Channels leading to such Ports, and for the improvement, maintenance, and good government of such Ports, Rivers, and Channels; also to regulate the levy of Port-dues, or charges in such Ports, Rivers, and Channels, in order to defray the cost of such improvement, maintenance, and good government; and to punish the unlawful use of certain flags and colors in such Ports, Rivers, and Channels; and whereas it is expedient to abolish the Anchorage dues heretofore levied in the Presidency of Bombay; It is enacted as follows :—

I. Repealed by Act XIV. of 1870.

Certain Regulations and Acts to cease to be in force in any port, etc., declared subject to this Act.

II. Regulation VII. 1801 of the Bengal Code; so much of Regulation II of 1810 of the Bombay Code as is still in force: Section XII Regulation III. 1833 of the Bengal Code; Act XIII of 1839; Section XXXIX of Act I of 1852; Sections XLII and XLIII of Act XIII of 1852; and Act XI of 1853, so far as it relates to the removal of any obstruction, impediment, or public nuisance affecting or likely to, affect the navigation of the Port of Bombay—shall cease to be in force in any Port, River, or Channel in which the same respectively are now in force, from the time when such Port, River, or Channel shall be declared to be subject to this Act.

Port, river or channel having been declared subject to this Act, all provisions herein contained shall have effect therein.

III. The Local Government of any part of the said territories may, with the sanction of the Governor General of India in Council, declare any port within that part of the said territories to be subject to this Act; and any navigable River or Channel leading to that port to be subject to this Act. When any such port or navigable River or Channel has been so declared to be subject to this Act, all the provisions of this Act, except such as are hereinafter made specially applicable to certain ports by order of the Local Government, shall have effect in that port or navigable River or Channel.

Declaration to define limits of each port, &c., and such limits always to extend to high water mark.

IV. Every declaration by which any port, navigable River, or Channel shall be made subject to this Act, shall define the limits of such Port, navigable River, or Channel: and such limits shall extend, always up to high-water mark, and may include any piers, jetties, landing-places, wharfs, quays, docks, and other works made for any of the purposes mentioned in the preamble of this Act, whether within or without the line of high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

Limits of port, &c., may be altered from time to time.

V. The Local Government may from time to time, with the sanction of the Governor General of India in Council, alter the limits of such Port, River or Channel.

Local Government to appoint a Conservator of every port, &c.,

VI. The Local Government shall appoint an officer to be Conservator of every Port, River, or Channel subject to this Act. In ports where there is a Master Attendant, such Master Attendant shall be the Conservator. In ports where there is no Master Attendant, but where there is a Harbour Master, the Harbour Master shall be the Conservator. In ports where there are both a Master Attendant and a Harbour Master, the Harbour Master and his Assistants shall be subordinate to, and subject to the control of the Master Attendant and his Assistants. The Conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

and may make Port Rules for certain specified purposes.

VII. The Local Government, with the sanction of the Governor General of India in Council, may from time to time make such Port-rules, not inconsistent with this Act, as it may think necessary for any of the following purposes, namely :—

1. For regulating the time at which, and the manner in which, vessels shall enter into or go out of any port subject to this Act.

2. For regulating the berths and stations to be occupied by vessels in and such port.

3. For striking the yards and top-masts, and for rigging in the jib and driver booms, of vessels in any such port, whenver it may be proper so to do.

4. For the removal or proper hanging or placing of anchors, spars, and other things, in or attached to vessels in any such port.

5. For regulating vessels whilst taking in or discharging ballast or cargo, or any prticular kind of cargo, in any such Port, River, or Channel, and the stations to be occupied by vessels whilst so engaged.

6. For keeping free passages of such width as may be deemed necessary within any such Port, River, or Channel, and along or near to the piers, jetties, landing-places, wharfs, quays, docks, moorings, and other works in or adjoining to the same ; and for making out the spaces so to be kept free.

7. For regulating the anchoring, fastening, mooring, and unmooring of vessels in any such Port, River, or Channel.

8. For regulating the moving and warping of all vessels within any such port and the use of warps therein.

9. For regulating the use of the mooring buoys, chain and other mooring in any such Port, River, or Channel.

10. For fixing from time to time the rates to be paid for the use of such moorings, when belonging to the East India Company, or of any boat, hawser, or other thing belonging to the said Company.

11. For regulating cargo and other boats, and catamarans plying for hire in any such port. Provided that nothing in this Act shall authorize the Local Government to fix the price to be charged for the use of any such boat or catamaran.

12. For regulating the use of fires and lights within any such port.

13. For enforcing and regulating the use of signal lights by vessels at night in any such Port, River, or Channel.

Every declaration and order to be published in Gazette, or some other public manner.

VIII. Every declaration and order of a Local Government, which shall be made in pursuance of this Act, shall be published in the Official Gazette of that Government, or where there is no Official Gazette, in such other public manner as that Government may order ; and a copy thereof shall be fixed upon in some conspicuous place in the office of the Conservator of every port to which such order shall relate, and in the Custom House, if any, of every such port.

Fine of Rs. 100 for any disobedience of orders.

IX. If any person shall disobey any such order, he shall be liable to a penalty not exceeding One Hundred Rupees for every offence.

Conservator may give directions for carrying into effect any Port Rules.

X. The Conservator of any port subject to this Act may, in respect of any vessel within such Port, River, or Channel, give directions for carrying into effect any Port-rule in force within such port.

Penalty for disobedience to directions of Conservator. Notice of direction how to be served.

XI. If any person shall wilfully, and without lawful excuse, refuse or neglect to obey any lawful direction of such Conservator, after notice thereof shall have been given to him, such person shall, for every such offence, forfeit and pay a sum not exceeding One Hundred Rupees, and a further sum not exceeding One Hundred Rupees for every day on which he shall wilfully continue to disobey such direction ; and in case of such refusal or neglect it shall be lawful for the said Conservator to do, or to cause to be done, all such acts as shall be reasonable or necessary for the purpose of carrying such direction into execution, and to hire and employ proper persons for that purpose; and all reasonable expenses which shall be incurred in doing such acts, shall be paid and borne by the person or persons so offending. Any written notice of a direction given under this Act, which shall be left for the Master of any vessel with any person employed on board thereof, or which shall be affixed on a conspicuous place on board of such vessel, shall, for the purpose of this Act, be deemed to have been given to the Master thereof.

Vessel of 200 Tons and upwards not to be moved without having a pilot, &c., on board, nor smaller Vessels without written authority from Conservators.

XII. In every port subject to this Act, to which the provisions of this Section shall be specially extended by any order of the Loeal Government, it shall be unlawful to move any vessel of the burthen of 200 tons or upwards, without having a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master on board ; or to move a vessel of any burthen less than 200 tons and exceeding 100 tons without having on board a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master, unless authority in writing so to do has been obtained from the Conservator or some officer empowered by such Conservator to give such authority ; and if any vessel shall, except in a case of urgent necessity, be removed contrary to the provisions of this Section, the Master of such vessel shall be liable to a penalty not exceeding Two-Hundred Rupees for every such offence, unless the Master of the vessel shall, upon application to the proper officer be unable to procure a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master to go on board the said vessel.

Master of Vessel to permit Warps to be

XIII. The Master of any vessel in any port subject to this Act shall, when required so to do by the Conservator, permit warps to be made fast to such vessel

for the purpose of warping any other vessel in the port, and shall not allow any such warp to be let go, until required so to do; and any Master offending against the provisions of this Section shall be liable, for every such offence, to a penalty not exceeding Two Hundred Rupees.

made fast to his Vessel. Penalty, Rs. 200.

XIV. If the Master of any vessel shall cause or suffer any warp or hawser attached to his vessel, to be left out in any such port, after sun-set, in such a manner as to endanger the safety of any boat or other vessel navigating in the said port; he shall be liable to a penalty for every such offence not exceeding Two Hundred Rupees.

Master not to leave Warp or hawser after sunset. Penalty, Rs. 200.

XV. The Conservator of any such port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable, or hawser, which shall endanger the safety of any vessel in such port, or at or near to the entrance thereof.

Conservator may in case of necessity cut ropes, etc.

XVI. If any person shall, without lawful excuse, cause any obstruction or impediment to the navigation of any Port, River, or Channel subject to this Act, or shall cause any public nuisance affecting or likely to affect such navigation, every such person shall be liable to a penalty not exceeding One Hundred Rupees, and also to pay all reasonable expenses which shall be incurred in abating or removing such nuisance, obstruction, or impediment; and the Conservator, or any Magistrate having jurisdiction over the offence, may cause such nuisance, obstruction, or impediment to be abated and removed.

Person causing obstruction to navigation or public nuisance liable to fine of Rs. 100 and costs.

XVII. The Conservator may remove, or cause to be removed, any timber or raft, floating or being in any part of any such port, which shall impede the free navigation of such port; or any thing which shall obstruct or impede the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring, or other work, on any part of the shore or bank which has been declared to be within the limits of such port, and is not private property; and the owner of any such timber or raft or other thing shall be liable to pay the reasonable expenses of such removal.

Conservator may remove at owner's expenses any floating timber or obstruction on shore.

XVIII. If the owner of any such timber or raft, or the person who has caused any such obstruction, impediment, or public nuisance as in either of the two last preceding Sections mentioned, shall neglect to pay the expense of the removal thereof, within one week after demand, or within fourteen days after such removal shall have been notified in the Official Gazette of the Presidency, or in such other manner as the Local Government by any general or special order may direct, such expenses may be recovered in the same manner as any penalty under this Act, and the Conservator may cause such timber, raft, or other thing, or the materials of any nuisance or obstruction so removed, or so much thereof as may be necessary, to be sold by Public Auction, and may retain all the expenses of such removal and sale out of the proceeds of such sale; and shall pay the surplus of such proceeds or deliver so much of the said timber or other materials as shall remain unsold, to the owner or other person entitled to receive the same; and, if no such person appear, shall cause the same to be kept and deposited in such manner as the Local Government shall direct; and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of such sale, by a further sale of so much of the said timber or other materials as may remain unsold.

Expenses of removing obstruction, etc. may be recovered as a Penalty.

XIX. If any obstruction or impediment to the navigation of any Port, River, or Channel, subject to this Act, shall have been lawfully made, or shall have become lawful by reason of the long continuance of such obstruction or impediment or otherwise, the Conservator shall report the same for the information of the Local Government and shall, with the sanction of such Government, cause the same to be removed or altered, making to the person or persons who suffer damage by such removal or alteration reasonable compensation for the same. If any dispute arise concerning such compensation, the matter in dispute shall be determined according to the laws now or hereafter to be in force in the Presidency or place within which such Port, River, or Channel is situate, relating to the determination of like disputes in the case of land required for public purposes.

Conservator may remove lawful obstruction with the sanction of local Government, making compensation for damage as in case of lands taken for public purposes.

XX. If any person shall wilfully and without lawful excuse lift, injure, loosen or set adrift any buoy, beacon, or mooring, fixed or said down by or by the authority of the Local Government in any Port, River, or Channel subject to this Act, he shall for every such offence be liable, in addition, to the payment of the amount of damages done, to a penalty not exceeding Two Hundred Rupees, or to be imprisoned with or without hard labor, for a period not exceeding six calendar months.

Penalty for injuring buoys, etc. Rs. 200 or imprisonment for 6 months.

XXI. If any vessel shall hook or get foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such Port, River, or Channel, the Master of such vessel shall not, nor shall any other person, except in the case of emergency, lift such buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the Conservator,

Notice to be given to Conservator if any Vessel gets foul of Government moorings Penalty Rs. 100.

and the Conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel; and the Master of such vessel shall, upon demand, pay such reasonable expense as may be incurred in clearing the same. If any person shall offend against the provisions of this Section, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.

Penalty for wilfully loosening any Vessel from its moorings, Rs. 200 or imprisonment for 6 months.

XXII. If any person shall wilfully and without lawful excuse loosen or remove from its moorings any vessel within any such port, River, or Channel without leave or authority from the owner or Master of such vessel, such person shall, for every such offence, forfeit a sum not exceeding Two Hundred Rupess, or, at the discretion of the Magistrate, be imprisoned, with or without hard labor, for a period not exceeding six calendar months.

Conservator may raise any wreck, etc. and after one month may recover expenses as provided for in Section 39.

XXIII. If any vessel shall be wrecked, stranded, or sunk in any such Port, River, or Channel, so as to impede or be likely to impede the navigation thereof the Conservator may cause the same to be raised, removed, or destroyed; and, unless the expense of such work shall be re-paid within one month after the completion thereof, and recover the same on behalf of the Local Government in the manner provided by Section XXXIX of this Act.

Penalty for unauthorized discharge of ballast or rubbish so as to impede navigation, Rs. 200 and costs of removal.

XXIV. If any ballast or rubbish, or if any other thing likely to form a bank or shoal, or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such Port, River or Channel, or into or upon any place on shore, from which the same shall be liable to be washed into any such Port, River, or Channel, either by ordinary or high tides, or by storms or land floods, the person who shall so cast or throw the same, or cause the same to be so cast or thrown as aforesaid, and the Master of any vessel from which the same shall be cast or thrown, shall forfeit and pay a sum not exceeding Two Hundred Rupees over and above any expenses which may be incurred in removing the same; but this provision shall not extend to any case in which such ballast or other thing shall be cast or thrown into any such Port, River, or Channel, with the consent in writing of any Conservator, or within any limits within which such act may be authorized by Government.

Penalty for graving, breaming, or smoking a vessel within prohibited limits, Rs. 500.

XXV. If any person shall grave, bream, or smoke any vessel in any such port, contrary to the directions of the Conservator, or at any time or within any limits at or within which such act shall be prohibited by any order of the Local Government, every such person, and also the Master of such vessel, shall forfeit a sum not exceeding Five hundred Rupees for every such offence.

Penalty for boiling pitch, etc., on board any vessel within prohibited limits, Rs. 200.

XXVI. If any person shall boil or heat any pitch, tar, resin, dammer, turpentine, oil, or other such combustible matter on board any vessel within any such port, at any place where such act shall be prohibited by order of the Local Government, or contrary to the order or directions of the Conservator, every such person, and also the Master of any vessel on board of which such offence shall be committed shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence.

Penalty for drawing off spirits by candle light etc., Rs. 200.

XXVII. If any person shall by candle-light or other artificial light draw off spirits on board any vessel within any such Port, every such person, and also the Master of every such vessel, shall be liable for every such offence to a penalty not exceeding Two Hundred Rupees.

Vessels above 200 Tons to be provided with a force pump, etc., in case of fire. Penalty.

XXVIII. In every such port to which the provisions of this Section shall be specially extended by an order of the Local Government, every vessel exceeding the burthen of 200 tons shall be provided with a proper force-pump, hose, and appurtenances for the purpose of extinguishing any fire that may occur on board; and the Master of every such vessel who, after having been required by the Conservator to comply with such provision, shall without lawful excuse, neglect or refuse so to do for the space of seven days after such requisition, shall be liable to a penalty not exceeding Five Hundred Rupees.

Vessels not to have powder, etc., exceeding 50 pounds on board.

XXIX. The Local Government may, by order, fix the limits within which vessels shall be prohibited from having on board, in any Port, River, or Channel subject to this Act, any quantity of gunpowder rockets, or other combustible ammunition, exceeding altogether fifty pounds in weight whether manifested for delivery or not; and in such case the Local Government shall appoint a proper place of deposit for such gunpowder, rockets, or combustible ammunition in excess of the quantity above allowed, and an officer to receive the same.

Government to fix place of deposit, and time and place of landing and shipping powder.

XXX. The Local Government may, in such case, by order, fix the times at or within which, and the manner in which such gunpowder, or rockets, or combustible ammunition shall be landed and deposited by any vessel inward-bound, and also the times at or within which, and the manner in which the same shall be taken on board any vessel from such place of deposit.

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XXXI. The Master of such vessel shall, upon such gunpowder, rockets, or combustible ammunition being deposited, make and sign a declaration in writing, that there is not then, to his knowledge or belief, on board such vessel any gunpowder, rockets, or combustible ammunition exceeding the weight of fifty pounds; and in case such Master shall knowingly make any false declaration with respect to any of the matters aforesaid, he shall be liable to a penalty not exceeding Two Hundred Rupees.

Master to make declaration, that he has not on board more than 50 lbs.

XXXII. The Officer with whom such gunpowder or other combustible ammunition shall be deposited shall give a receipt for the same to the Master or other person making the deposit, and he shall be accountable to such Master or other person for the re-delivery of the same.

Officer to give receipt for powder deposited and to account for it.

XXXIII. If any vessel shall be prevented by stress of weather from landing or depositing such gunpowder, rockets, or other combustible ammunition, in excess of the quantity allowed as aforesaid, the Master or owner of such vessel shall, so soon as the weather may permit, land and deposit the same at the place so appointed as aforesaid, or shall forthwith give notice to the Conservator, or other officer who shall be named for that purpose by any order of the Local Government, of his having such gunpowder, rockets, or other combustible ammunition on board, and shall obey his directions relating to the same.

If powder not landed on account of stress of weather, notice to be given.

XXXIV. The Local Government may also, in respect to such port, by order, fix the times and places at which, and the manner in which, vessels outward-bound, requiring to take in any gunpowder, rockets, or other combustible ammunition, exceeding the quantity above-mentioned, shall take in the same, whether such gunpowder, rockets, or other combustible ammunition shall have been previously landed from such vessel or not.

Government may fix time and place, and manner for taking in powder for Vessels outward bound.

XXXV. The Master of any vessel which shall have on board any gunpowder, rockets, or other combustible ammunition, contrary to the provisions of this Act, shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence; and all gunpowder, rockets, or other combustible ammunition which shall be on board any vessel, contrary to the provisions of this Act, shall be forfeited to Government, and may be seized by the Conservator, or by any Collector of Customs, or by any Custom House Officer, or other officer authorized in that behalf by any general or special order of the Local Government, within the limits of their respectives jurisdictions. Nothing in the Act contained shall extend to any gunpowder, rockets, or other ammunition belonging to Government, or carried for the use of troops of Her Majesty * * *.

Penalty for having prohibited powder, etc. on board, Rs. 200 and forfeiture.

XXXVI. If any person shall, without lawful excuse, discharge any gun, musket, or other fire-arm in any port subject to this Act, or on or from the landing-places piers, wharfs, or quays thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, such person shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees.

Penalty for discharging guns, etc., Rs. 50.

XXXVII. In every Port, River, or Cannal subject to this Act, to which the provisions of this Section shall be specially extended by any order of the Local Government, no person, unless duly authorized by the Conservator, shall creep or sweep for anchors, cables, or other stores, lost or supposed to be lost, in such Port, River, or Channel. Every person offending against this provision shall be liable to a penalty not exceeding One hundred Rupees.

Penalty for unauthorized search for lost anchors and stores Rs. 100.

XXXVIII. If any anchors, wreck, stores, or other property shall be recovered by any officer employed by the Local Government for that purpose, from the bed of any Port, River or Channel subject to this Act. the Local Govement shall be entitled to receive a reasonable sum for salvage, having regard to the place of recovery. A registry shall be kept of all anchors, wreck, or other property so recovered, in such manner, and at such place or places as the Local Government may direct; and such registry shall be open to public inspection at reasonable office hours, except on Sundays and such holidays as the Local Government may direct; and such registry shall contain a description of such property, and of the times and places where the same shall have been recovered.

Registry to be kept of all anchors, etc. recovered by Government officer, and reasonable salvage to be paid for the same.

XXXIX. If the property recovered under the last preceding Section, or by a Conservator acting under Section XXIII of this Act, is unclaimed, or if the person claiming the same refuses to pay the amount due to the Local Government in respect thereof, such property, if of a perishable nature, may be sold forthwith; and if not of a perishable nature, may be sold at any period not less than six months after the recovery thereof by Public Auction; and on the realization of the proceeds, the amount due to the Local Government for salvage, or for the expenses incurred under Section XXXIII as aforesaid, shall be deducted therefrom, and credited to the Local Government, and the balance shall be paid to the person entitled to the property recovered, or if no such person shall appear and claim the same, shall be held in deposit for payment, without interest, to any person who may thereafter establish his right to the same.

If property be unclaimed or salvage unpaid, property may be sold after 6 months or forthwith if perishable.

Penalty for removing stones, &c., or sinking, mooring posts, etc., so as to injure the shore, Rs. 100 and costs of repair.

XL. In every Port, River, or Channel subject to this Act, to which the provisions of this Section shall be specially extended by an order of the Local Government no person without the permission of the Conservator, shall remove or carry away any rock, stones, shingle, gravel, or soil, or any artificial protection from any part of the bank or shore of such Port, or River, or Channel; and no person shall sink or bury in any part of such bank or shore, whether the same be public or private property, any mooring-post, anchor, or any other thing which is likely to injure, or to be used so as to injure such bank or shore, except with the permission, of the said Conservator, and with the aid or under the inspection of such person or persons (if any) as he may appoint to take part in or overlook the performance of such work. If any person shall offend against the provisions of this Section, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence, and to pay the expenses of repairing the injury (if any) done to such bank or shore.

No Port-dues or fees to be hereafter levied except under this or future Act.

XLI. The dues and fees now usually collected at the several ports within the said territories, may, during the period of one year from the time of the passing of this Act be collected at such ports respectively. No Port-dues or fees shall hereafter be levied in any such port except under the authority of this Act or of an Act hereafter to be passed for fixing the amount thereof; but nothing herein contained shall prevent the levy, as heretofore, of light-duties under Regulation VI. of 1831 of the Bombay Code and Act XIII. of 1854, or of fines or duties payable under Act XXVII. of 1850.

Local Government may vary the Port-dues, but not so as to exceed the limit fixed by this or other Act.

XLII. The Local Government may, from time to time, vary the rate at which Port-dues and fees shall be levied in any such Port, River, or Channel, in such manner as, having regard to the receipts and charges on account of that port, it may deem expedient, by reducing or raising the dues and fees, or any of them; provided that the rates shall not in any case exceed the amount authorized to be taken by this or any subsequent Act.

XLIII. Repealed by Act XIV. of 1870.

Distinct account of Port-dues and an abstract thereof to be kept.

XLIV. For every port at which Port-dues shall be levied under this or any subsequent Act, a distinct account, to be called the Account of the Port Fund of the port to which it relates, shall be kept by such officer as the Local Government may appoint for that purpose. This account shall show in complete detail the receipts and charges of the port; and an abstract statement of every such account shall be published annually, as soon after the 1st of May of each year as may be practicable, in which statement the balance at the close of the year at the credit or debit of the port shall be shown. If, for any of the purpose of this Act, an advance of money shall have been or shall be made by Government on account of any port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor General in Council may determine, shall be charged in the Port Fund Account thereof; all expenses, including the pay and allowances of all persons upon the establishment of the port, the cost of buoys, beacons, light, and all other works maintained chiefly for the benefit of vessels lying in, or entering, or leaving the port, or passing through the Rivers or Channels leading thereto, but excluding receipts and expenses on account of Pilotage, incurred for the sake of every such port, shall be charged in the Port Fund Account of that port. And all money, including salvage money, proceeds of waifs, and fines, received under this Act, at or on account of every such port, shall be credited in the Port Fund Account of that port.

Collector of Customs to collect Port-dues and to give signed vouchers.

XLV. The Collector of Customs at every such port, or such other officers as the Local Government shall appoint shall collect the Port-dues above-mentioned. The officer to whom any such Port-dues shall be paid, shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the same shall be paid, and the name, tonnage, and other proper description of the vessel in respect of which such payment shall have been made.

Master to report arrival of Vessel to Harbour Master within 24 hours. Penalty, Rs. 100.

XLVII. Within twenty-four hours after the arrival, within the limits of any such port, of any vessel liable to the payment of Port-dues under this or any subsequent Act, the Master of such vessel shall report such arrival to the Conservator of such port; and if any Master of a vessel shall, without lawful excuse, fail to make such report within the time aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.

If draught be not properly marked on the Vessel, Conservator may ascertain it by

XLVII. If any vessel liable to the payment of Port-dues under this or any subsequent Act, shall be in any such port without proper marks on the steam and stern posts thereof for denoting the draught of such vessel, the Conservator may in any case in which it shall be necessary to ascertain the draught of such vessel

cause the same to be ascertained by means of the operation of hooking and the Master of such vessel shall be liable to pay the expenses of such operation.

hooking at Master's expense.

XLVIII. In order to ascertain the tonnage of any vessel liable to pay Port-dues under this or any subsequent Act, the following rules shall be observed :—

Conservator, if not satisfied as to tonnage of Vessel by production of register or otherwise, may cause tonnage to be ascertained by measurement at Master's expense.

Clause 1.—If such vessel be a British-registered vessel or a vessel registered under Act X of 1841, or Act XI of 1850, for under the laws for the time being in force for the registration of vessels in India, the Conservator may require the owner or Master of such vessel, or any person having possession of the register of such vessel, to produce such register for inspection ; and if any such Master or other person shall without lawful excuse, neglect or refuse to produce such register as aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees. If any such owner, Master or other person as aforesaid shall neglect or refuse to produce such register, or otherwise to satisfy the Conservator as to what is the true tonnage of the vessel in respect of which such Port-dues shall be payable, it shall be lawful for the Conservator to cause such vessel to be measured, and the tonnage thereof to be ascertained ; and in such case the owner or Master of such vessel shall also be liable to pay the expenses of such measurement.

Clause 2.—If such vessel be not a British-registered vessel, or a vessel registered under Act X of 1841 or Act XI of 1850, or under the laws for the time being in force for the registration of vessels in India, and the owner or Master thereof shall fail to satisfy the Conservator as to what is the true tonnage of such vessel, according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Conservator shall cause such vessel to be measured, and the tonnage thereof, according to the mode aforesaid, to be ascertained ; and in such case the owner or Master of such vessel shall be liable to pay the expenses of such measurement.

On refusal by Master to pay Port-dues, etc., the Collector may distrain, and after 5 days sell the Vessel, tackle, etc.

XLIX.* If the Master of any vessel, in respect of which any Port-dues fees, or charges shall be payable under this or any subsequent Act, shall refuse or neglect to pay the same or any part thereof on demand, the Collector of Customs, or other person authorized to collect such Port-dues or charges, may distrain or arrest of his own authority such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the same until the amount due shall be paid ; and in case any part of the said Port-dues or charges, or of the costs of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment so made, the Collector of Customs, or other such person as aforesaid, may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy the Port-dues, charges, and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the Master of such vessel upon demand.

Port clearance not to be granted until dues, etc. are paid.

L. The officer of Government, whose duty it shall be to grant a Port Clearance for any vessel, shall not grant such Port Clearance, until the owner, agent, or Master of that vessel, or some other person, shall have paid all Port-dues, fees, and charges to which such vessel, or the owner or Master of such vessel in respect thereof, shall be liable under this or any subsequent Act.

Conservator, Collector, etc. may go on Board any Vessel when necessary for discharge of duty. Penalty for opposing entry, Rs. 200.

LI. The Conservator or any of his Assistants may, whenever he shall suspect that any offence has been or is about to be committed in any vessel contrary to this Act, or whenever it is necessary for him so to do in the discharge of any duty imposed upon him by this Act ; and the Collector of Customs or other officer appointed to collect any Port dues or other charges payable in respect of any vessel under this or any subsequent Act, may, whenever it is necessary so to do for the performance of any duty imposed upon such Collector or other officer under this Act, either alone or with any other person or persons, go on board any vessel within the limits of any Port, River, or Channel subject to this Act. If the Master or other person in charge of such vessel shall without lawful excuse, refuse to allow any such Conservator or any of his Assistants or any such Collector of Customs, or other officer or person, to enter such vessel for the performance of any duty imposed upon him by this Act, he shall, for every such offence, be liable to a penalty not exceeding Two Hundred Rupees.

Penalty for obstructing officers in the discharge of duty, Rs. 200

LII. If any person shall wilfully obstruct or hinder any officer in the execution of any duty imposed or power conferred by this Act, or shall assault or ill-treat him in the discharge of such duty, or in the exercise of such power, such person shall, for every such offence, be subject to a penalty not exceeding Two Hundred Rupees.

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* Act XIX of 1860 is to be real with this Act.

Harbour Master or Assistant to Conservator or Harbour Master may do all acts that Conservator himself may do but subject to his control.

LIII. All acts, orders, or directions by this Act authorized to be done or given by any Conservator, may, subject to his control, be done or given by any Harbour Master or any Assistant of such Conservator or Harbour Master. And any person hereby authorized to do any act, may call to his aid such assistance as may be necessary.

Penalty for hoisting unlawful colors, Rs. 50 penalty under the Statute.

LIV. If any vessel belonging to any of Her Majesty's subjects, or sailing under British colors, shall hoist, carry, or wear, within the limits of any Port, River, or Channel subject to this Act, any flag, jack, pendant, or colors, the use whereof on board such vessel shall have been prohibited by the Statute 17 and 18 Victoria Chapter 104, or any other Statute now or hereafter to be in force, or by any Proclamation made or to be made in pursuance of any such Statute, or by any of Her Majesty's Regulations in force for the time being, the Master of such vessel shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees; and such penalty shall be in addition to any other penalty which may be recoverable under the said Statute, or any future Statute to be made in that behalf and it shall be lawful for any Officer of the Indian Navy, within the limits of such Port, River, or Channel, or for the Conservator of such Port, to enter on board any such vessel, and to seize and take away any flag, jack, pendant, or color so unlawfully hoisted, carried, or worn on board the same.

All offences against this Act to be punishable summarily, and penalties may be recovered either under Act II. 1839 or by distress and sale of Vessel, etc.

LV. All offences against this Act shall be punishable in a summary manner by a Magistrate. And in addition to the means prescribed by Act II of 1839, the provisions of which are hereby extended to all penalties imposed under this Act, it shall be lawful for a Magistrate, by Warrant under his hand, to cause the amount of any such penalty imposed upon the owner or Master of any vessel for any offence committed on board of such vessel, or in the management thereof, or otherwise in relation thereto, whereof such owner or Master shall be convicted, to be levied by distress and sale of such vessel, and the tackle, apparel, and furniture thereof, or so much thereof as shall be necessary.

Magistrate may order costs and levy them as penalties.

LVI. In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of such conviction in addition to any penalty or expenses to which he may be liable. Such costs may be assessed by the Magistrate, and may be levied and recovered in the same manner as any penalty under this Act.

Magistrate may assess damages etc. and levy them as penalties.

LVII. In every case in which any person shall be liable, under the provisions of this Act, to pay any sum of money, damages, or expenses not exceeding One Thousand Rupees, the same may be recovered and levied in the same manner as any penalty under this Act, and if necessary, the amount thereof may be fixed and assessed by the Magistrate before whom the case shall be tried.

Costs of distress may be recovered in addition to amount levied.

LVIII. In any case in which any penalty, damages, or expenses, shall be levied under this Act, by distress and sale, the costs of such distress and sale may be levied in addition to such penalty, damages, or expenses, and in the same manner.

In case of dispute, the Magistrate may determine the amount to be levied.

LIX. If any dispute shall arise concerning the amount leviable by any distress or arrestment by virtue of this Act, or the charges or costs payable under the last preceding Section, the person making such distress or using such arrestment may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied shall have been determined by a Magistrate; who, upon application made to him for that purpose, shall have power to determine such amount, and to award such costs to be paid by either of the parties to the other of them, as he shall think reasonable; and payment of such costs, if not paid on demand, shall be enforced in the same manner as any penalty under this Act.

Act not to extend to vessels of war nor affect any private right of property nor any Customs law.

LX. Nothing in this Act shall extend to any vessel belonging to, or in the service of Her Majesty, or of the East India Company, or to any vessel of war belonging to any Foreign Prince or State; nor to deprive any person of any right of property or other private right, except as hereinbefore expressly provided; nor to affect any law or regulation relative to the Customs; nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law or regulation.

East India Company not to be answerable for act or default of any Conservator etc, except when done by express sanction.

LXI. The East India Company shall not be answerable for any act or default of any Master Attendant, Harbour Master, or other Conservator of any Port, River, or Channel subject to this Act, ; or of any Pilot ; or of any Deputy, or Assistant of any of the officers above-mentioned; or of any person acting under the authority or directions of any such officer or Assistant, done within the limits of such Port, River, or Channel; nor for any damage or injury sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the said Company, within the said limits, which may be used

by such vessel. Provided that nothing in this Section shall protect the East India Company from an action in respect of any act done by or under the express order or sanction of Government.

Interprets the word Magistrate.

LXII. The word "Magistrate" in this Act shall include a Justice of the Peace of the Presidency Towns of Calcutta, Madras and Bombay, or for the Settlement of Prince of Wales' Island, Singapore, and Malacca, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and also any Deputy or Assistant Magistrate to the extent of the powers of such Deputy or Assistant Magistrate.

Any Magistrate having jurisdiction over any place adjoining the port, river, etc. to have jurisdiction over offences under this Act.

LXIII. Whereas divers ports and navigable Rivers may be situated partly within the jurisdiction of one Magistrate, and partly within that of another, by reason whereof doubts may arise upon questions of jurisdiction over offences which may be committed contrary to this Act; it is therefore enacted that, if any person shall be guilty of an offence against the provisions of this Act in any Port, River, or Channel subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such Port, River, or Channel, or adjoining either side of that part of the navigable River or Channel in which such offence shall be committed; and that such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits; and in case any such Magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

Conviction of Justice of the Peace to be quashed on merits only.

LXIV. No conviction, order, or Judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them shall be returned with the conviction, order or judgment, in obedience to any writ of *certiorari*; and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Interprets the words Local Government, Vessel, and Master.

LXV. In the construction of this Act, unless there be something in any special provision thereof, or in the context, repugnant to such construction, the words "Local Government" shall be deemed to mean the person or persons for the time being immediately administering the Executive Government of that portion of the territories under the government of the East India Company in which the Port, River, or Channel in question is situated. The word "Vessel" shall include any thing made for the conveyance by water of human beings or of property. The word "Master," when used in relation to any vessel shall mean and include any person having for the time being the charge, or command, or control of such vessel.

ACT NO. XXIII. OF 1855.

1. Mortgage debts on property descending or devised, how to be discharged. Proviso as to the right of mortgagee to full satisfaction from the personal estate of the deceased. Proviso as to claims made prior to this Act.

An Act to amend the Law relating to the administration of the Estates of deceased persons charged with money by way of Mortgage.

WHEREAS it is expedient that the law, under which the real and personal assets of deceased persons subject to the English law are adminstered, should be amended; It is enacted as follows:—

I. After this Act shall have come into operation, if any person shall die seised of, or entitled to any estate or interest in any land or other hereditaments within the territories in the possession and under the government of the East India Company, which shall, at the time of his death, be charged with the payment of any sum or sums of money by way of mortgage, and such person shall not by his will or deed or other document have signified any contrary or other intention, the heir or devisee to whom such land or hereditaments shall descend

or be devised shall not be entitled to have the mortgage-debt discharged or satisfied out of the personal estate or any other real estate of such person, but the land or hereditaments so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage-debts with which the same shall be charged, every part thereof, according to its value, bearing a proportionate part of the mortgage-debts charged on the whole thereof: Provided always, that nothing herein contained shall affect or diminish any right of the mortgagee of such lands or hereditaments to obtain full payment or satisfaction of his mortgage-debt either out of the personal estate of the person so dying as aforesaid or otherwise: Provided also that nothing herein contained shall affect the rights of any person claiming under or by virtue of any will, deed, or document already made, or to be made, before this Act shall have come into operation.

ACT NO. XXIV. OF 1855.

1. No European or American to be sentenced to transportation.
2. Terms of penal servitude substituted for the present terms of transportation.
3. Discretion of Courts as to alternative punishment not to be affected.
4. Effect of pardon, granted upon condition of penal servitude.
5. The Executive Government may direct Europeans or Americans under sentence of transportation to be kept in penal servitude. Terms of penal servitude in such case.
6. Persons under sentence of penal servitude where to be sent and how to be dealt with. Intermediate imprisonment. Proviso.
7. All Acts, &c., respecting convicts under sentence of transportation or imprisonment with hard labour made applicable for the purposes of this Act.
8. Removal of European or American convicts under sentence of imprisonment from one prison to another.
9. Governor General in Council may grant a license to be at large to an convict under sentence of penal servitude.
10. Holder of such license not to be imprisoned, &c.
11. If license revoked, the convict may be apprehended and committed to prison.
12. Penalty for breach of condition of the license.
13. Act not to affect the provisions of certain English Statutes.
14. What to be deemed proof that a person is a European or an American.
15. Construction of Act.
16. Commencement of Act.

An Act to substitute penal servitude for the punishment of Transportation in respect of European and American Convicts, and to amend the law relating to the removal of such Convicts.

WHEREAS, by reason of the difficulty of providing a place to which Europeans or Americans can, with safety to their health, be sent for the purpose of undergoing sentences of transportation or of imprisonment for long terms, it has become expedient to substitute other punishment for that of transportation, and to amend the law relating to the removal of European and American Convicts for the purpose of imprisonment; It is enacted as follows:—

No European or American to be sentenced to transportation.

I. After the commencement of this Act, no European or American shall be liable to be sentenced or ordered, by any Court within the territories in the possession and under the government of the East India Company, to be transported.

Terms of penal servitude substituted for the present terms of transportation.

II. Any person who, but for the passing of this Act, would, by any law now in force, or which may hereafter be in force, in any part of the said territories, be liable to be sentenced or ordered by any such Court to be transported, shall, if a European or American, be liable to be sentenced or ordered to be kept in penal servitude for such term as hereinafter mentioned.

The terms of penal servitude to be awarded by any sentence or order instead of the term of transportation to which any such offender would, but for the passing of this Act, be liable, shall be as follows: (that is to say)—

Instead of transportation for seven years, or for a term not exceeding seven years, penal servitude for the term of four years.

Instead of any term of transportation exceeding seven years, and not exceeding ten years, penal servitude for any term not less than four and not exceeding six years.

Instead of any term of transportation exceeding ten years and not exceeding fifteen years, penal servitude for any term not less than six and not exceeding eight years.

Instead of any term of transportation exceeding fifteen years, penal servitude for any term not less than six and not exceeding ten years.

Instead of transportation for the term of life, penal servitude for the term of life. And in every case where, at the discretion of the Court, one of any two or more of the terms of transportation hereinbefore mentioned might have been awarded, the Court shall have the like discretion to award one of the two or more terms of penal servitude hereinbefore mentioned, in relation to such terms of transportation.

Discretion of Courts as to alternative punishment not to be affected.

III. Provided always, that nothing herein contained shall interfere with or affect the authority or discretion of any Court in respect of any punishment which such Court may now award or pass on any offender other than transportation, but where such other punishment may be awarded at the discretion of the Court insted of transportation or in addition hereto, the same may be awarded instead of, or (as the case may be) in addition to, the punishment substituted for transportation by this Act.

Effect of pardon granted upon condition of penal servitude.

IV. If any offender sentenced by any Court within the said territories to the punishment of Death shall have mercy extended to him, upon condition of his being kept in penal servitude for life, or for any term of years, all the provisions of this Act shall be applicable to such offender in the same manner as if he had been lawfully sentenced uuder this Act to the term of penal servitude specified in the condition.

Government may direct Europeans or Americans under sentence of transportation to be kept in penal servitude. Term of servitude in such case.

V. It shall be lawful for the Governor General of India in Council or for the person or persons for the time being administering the Executive Government of any Presidency or place in which a European or American has been lawfully sentenced by any Court to be transported, to order such person to be kept in penal servitude for the shortest term of penal servitude substituted by this Act for a term of transportation of the same extent as that to which the offender was sentenced, or that portion thereof which he shall not have undergone, provided that no person shall be kept in penal servitude under the provisions of this Section after the expiration of the term of transportation to which he was sentenced.

Persons under sentence of penal servitude where to be sent and how to be dealt with. Intermediate imprisonment.

VI. Every person who, under this Act, shall be sentenced or ordered to be kept in penal servitude, may, during the term of the sentence or order, be confined in any such prison or place of confinement within any part of the said territories as the Governor General of India in Council shall, by any General Order from time to time direct; and may during such time be kept to hard labour; and such person may, until he can conveniently be removed to such prison or place of confinement, be imprisoned, with or without hard labour, and dealt with in all other respects in the same manner as persons sentenced by the convicting Court to imprisonment with hard labour may, for the time being, by law be dealt with. Provided, that the time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

Proviso.

All Acts, etc., respecting convicts under sentence of transportation or imprisonment with hard labour made applicable for the purposes of this Act.

VII. All Acts and Regulations now in force within any part of the said territories, with respect to convicts under order or sentence of transportation, or under order or sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act be construed to extend and be applicable to persons under any order or sentence of penal servitude made or passed under this Act.

VIII. Repealed by Act XII. of 1867.

G. G. in C. may grant a license to be at large to any convict under sentence of penal servitude.

IX. It shall be lawful for the Governor General of India in Council to grant to any convict, who may hereafter be sentenced or ordered to be kept in penal servitude, a license to be at large within the said territories, or in such part thereof as in such license shall be expressed, during such portion of his term of servitude, and upon such conditions in all respects as to the Governor General of India in Council shall seem fit; and it shall be lawful for the said Governor General in Council at any time to revoke or alter such license by a like order.

Holder of such license not to be imprisoned, etc.

X. So long as such license shall continue in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

If license revoked, the convict may be apprehended.

XI. In case of the revocation of any such license as aforesaid, it shall be lawful for one of the Secretaries to the Government of India by order in writing to signify to any Justice of the Peace or Magistrate that such license has been revoked, and to require such Justice or Magistrate to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly; and such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of the said territories, and shall have the same force and effect in any place within such territories as if the same had been originally issued or subsequently endorsed by a Justice or Magistrate, or other lawful authority having jurisdiction in the place where the same shall be executed; and such convict, when apprehended under such warrant, shall be brought, as soon as he conveniently may be, before the Justice or Magistrate by whom the said warrant shall have been issued, or some other Justice or Magistrate of the same place, or before a Magistrate or Justice having jurisdiction in the zillah or district in which such convict shall be apprehended, and such Justice or Magistrate shall thereupon make out his warrant, under his hand and seal, for the re-commitment of such convict to the prison or place of confinement from which he was released by virtue of the said license, and such convict shall be re-committed accordingly, and shall thereupon be liable to be kept in penal servitude for such further period as, with the time during which he may have been imprisoned under the original sentence or order, and the time during which he may have been at large under an unrevoked license, shall be equal to the period mentioned in the original sentence or order.

Penalty for breach of condition of the license.

XII. If a license be granted under Section IX of this Act upon any condition specified therein, and the convict to whom the license is granted violate any such condition, or shall go beyond the limits specified in the license, or, knowing of the revocation of such license, shall neglect forthwith to surrender himself, or shall conceal himself or endeavour to avoid being apprehended, he shall be liable, upon conviction, to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence or order.

Act not to affect the provisions of certain English Statutes.

XIII. Nothing in this Act is intended to alter or affect the provisions of the 12 and 13 Victoria Chapter 43, or any Act of Parliament passed in the United Kingdom of Great Britain and Ireland since the 28th of August 1833, or which may hereafter be passed.

What to be deemed proof that a person is a European or an American.

XIV. Any sentence or order upon any person describing him as a European or American shall be deemed, for the purposes of this Act, to be conclusive of the fact that such person is a European or American within the meaning of this Act.

Construction.

XV. The word "European" as used in this Act, shall be understood to include any person usually designated a European British subject. Words in the singular number or the masculine gender shall be understood to include several persons as well as one person, and female as well as males, unless there be something in the context repugnant to such construction.

XVI. Repealed by Act XIV. of 1870.

ACT No. XXVI. OF 1855.

1. Secretary of Government Savings' Bank, in certain cases, to pay without probate, &c., money belonging to the estate of a deceased depositor. Payment to be a discharge. Saving of right of executor, &c. And of creditor.

2. Security for due administration.

3. Power to administer oath, &c. Penalty for false testimony.

4. Administrator General not to grant certificate in respect of money deposited.

5. Act not to apply to money belonging to the estates of European Soldiers, Sailors, &c.

An Act to facilitate the payment of small deposits in Government Savings' Banks to the representatives of deceased depositors.

WHEREAS it is expedient to facilitate the payment of small sums belonging to the estates of deceased depositors in the Savings' Banks established by Government within any part of the territories in the possession and under the government

of the East India Company to the representatives of such depositors ; It is enacted as follows :—

I. If a depositor in any Government Savings' Bank shall die leaving therein a sum of money not exceeding Five Hundred Rupees, and probate of his Will or letters of administration of his estate or effects or a certificate granted under Act No. XX of 1841, or under Section IV of Act No. X of 1861, shall not be produced to the Secretary of such Bank within the period of two months from the time of the death of the said depositor, it shall be lawful for the Secretary of such Bank to pay the same to any person or persons who shall appear to him to be entitled to receive the same or to administer the effects of the deceased ; and such payment shall be a full indemnity and discharge from all further liability in respect of the money so paid ; but nothing herein contained shall preclude any executor or administrator or representative of the deceased from recovering from the person or persons receiving the same the amount remaining in his or their hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration ; and any creditor or claimant against the estate of the deceased shall be at liberty to recover his debts or claim out of the money so paid to such person or persons and remaining in his or their hands unadministered, in the same manner and to the same extent as if such person or persons had obtained letters of administration to the estate of the deceased.

Secretary of Government Savings' Bank in certain cases, to pay without probate, etc., money of a deceased depositor. Payment to be a discharge.

Saving of right of executor, etc.,

and of creditor.

II. The Secretary of any such Bank may take such security as he shall think necessary from any person or persons to whom he shall pay the money under the preceding Section, for the due administration and distribution of the money so paid, and may assign the same to any person or persons interested in the due administration and distribution thereof, which person or persons may sue on the same in his or their own names.

Security for due administration.

III. For the purpose of ascertaining the right of the person or persons claiming to be entitled as aforesaid, it shall be lawful for the Secretary of any such Bank to administer an oath or affirmation ; and every person who, having been sworn or having taken a solemn affirmation under this Act, shall wilfully give false testimony upon any examination authorized by this Act, shall be deemed guilty of perjury, and if convicted, shall be liable to be punished accordingly.

Power to administer oath, etc. Penalty for false testimony.

IV. Repealed by Act XXIV. of 1867.

V. Nothing in this Act contained shall apply to the payment of any money deposited in a Government Savings Bank, belonging to the estate of any European Officer or Soldier dying in Her Majesty's service in India, * * * or to the estate and effects of any person who, at the time of his death, was a deserter from the said Service.*

Act not to apply to money belonging to the estates of European Soldiers, Sailors, etc.

ACT No. XXVIII. OF 1855.

1. Repealed.
2. What rate of interest shall be decreed by the Court in any suit.
3. Rate of interest upon a Judgment or decree.
4. Contract for the usufruct of property, in lieu of interest, to be binding.
5. What amount of interest to be deposited in certain cases of conditional sales under the Bengal Regulations. Proviso.
6. Rate of interest on future adjustments of accounts.
7. Transactions previous to this Act not to be affected.
8. Commencement of Act.

An Act for the repeal of the Usury Laws.

WHEREAS it is expedient to repeal the laws now in force relating to Usury ; It is enacted as follows :—

I. Repealed by Act XIV. of 1870.

II. In any suit in which interest is recoverable, the amount shall be adjudged or decreed by the Court at the rate (if any,) agreed upon by the parties ; and if no rate shall have been agreed upon, at such rate as the Court shall deem reasonable.

Rate of interest to be decreed the Court.

* The words omitted from this Section have been repealed by Act XIV of 1870.

Rate of interest upon a judgment or decree.

III. Whenever a Court shall direct that a judgment or decree shall bear interest, or shall award interest upon judgment or decree, it may order the interest to be calculated at the rate allowed in the judgment or decree upon the principal sum adjudged, or such other rate as the Court shall think fit.

Contract for the usufruct of property, in lieu of interest, to be binding.

IV. Mortgage or other contract for the loan of money by which it is agreed that the use or usufruct of any property shall be allowed in lieu of interest, shall be binding upon the parties.

What amount of interest to be deposited in certain cases of conditional sales under the Bengal Regulations.

Proviso.

V. Whenever, under the Regulations of the Bengal Code, a deposit may be made of the principal sum and interest due upon any mortgage or conditional sale of land hereafter to be entered into, the amount of interest to be deposited shall be at the rate stipulated in the contract, or, if no rate has been stipulated and interest be payable under the terms of the contract, at the rate of twelve per centum per annum. Provided that, in the latter case, the amount deposited shall be subject to the decision of the Court as to the rate at which interest shall be calculated.

Rate of interest on future adjustments of accounts.

VI. In any case in which an adjustment of accounts may become necessary between the lender and the borrower of money upon any mortgage, conditional sale of landed property or other contract whatsoever, which may be entered into after the passing of this Act, interest shall be calculated at the rate stipulated therein; or, if no rate of interest shall have been stipulated, and interest be payable under the terms of the contract, at such rate as the Court shall deem reasonable.

VII. Repealed by Act XIV. of 1870.

VIII. Do. do.

SCHEDULE.

(*Repealed by Act XIV. of 1870.*)

ACT No. XXXII OF 1855.

1. Regulations repealed.

2. What is a public embankment within this Act.

3. Who to have superintendence of public embankments.

4. Superintendent may take charge of any embankment which connects public embankments, &c. And remove private embankment endangering a public embankment. And change the line of any public embankment, &c.

5. Before taking charge of private embankments, &c., Superintendent to give notice to Collector, who shall issue a proclamation. Publication of proclamation. Procedure on appearance of parties. Appeal from orders of Superintendent and Commissioner of Revenue. Orders not open to revision by the Civil Court.

6. Maintenance of private embankments taken charge of by the officers of Government. Proviso.

7. Compensation for damages sustained under this Act.

8. Application by landholder to have a sluice made in a public embankment.

9. Opening of sluices.

10. Officer in immediate charge of embankments may authorize temporary water-course, &c. to be made.

11. Specifications and estimates for maintaining or improving embankments kept up at the expense of Zemindars to be prepared annually, &c.

12. Superintendent to report as to removal of buildings, &c.

13. After award, Collector to give notice of payment, and to remove buildings, &c. in 30 days.

14. Collector may remove buildings, &c., at the cost of the owners, in case they neglect to do so themselves.

15. Penalty for obstructing officer or person in discharge of duty.

16. Penalty for wilful damage to embankment by cutting, &c.

17. Penalty for other wilful damage.

18. Jurisdiction of deputy or Assistant Magistrate under this Act.

19. Provision of Section XIII Regulation XX. 1817 extended to this Act.

20. Right of appeal.

21. Interpretation.

An Act relating to Embankments.

WHEREAS the Regulations now in force for the maintenance of embankments in the territories under the Government of the Lieutenant-Governor of Bengal have been found ineffectual for the intended purpose thereof, and whereas it is desirable that provision should be made for the better supervision and protection of the same; It is enacted as follows:—

I. Repealed by Act XIV of 1870.

II. The word "embankment" in this Act means an embankment for the purpose of excluding or retaining water; and every embankment which is now kept up, or may hereafter be kept up, by the officers of Government, at the expense either of Government or of any private person, is a public embankment within the meaning hereof.

What is a public embankment.

III. The superintendence of the public embankment shall be entrusted, subject to the general orders of Government, to an officer who shall be called the Superintendent of Embankments.

Who to superintend public embankments.

IV. *Clause* 1.—The Superintendent of Embankments may cause any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or is necessary for the protection of the neighbouring country, to be taken charge of and kept up by the officers of Government.

Powers of Superintendent.

Clause. 2.—He may also cause any private embankment, which endangers the stability of a public embankment, or obstructs the beneficial drainage of the country, to be removed.

Clause 3.—He may also, when necessary, change the line of any public embankment, or make a new embankment.

Clause 4.—He may also enlarge any public embankment, and do all acts necessary and proper for the maintenance thereof.

V. *Clause* 1.—Before the Superintendent shall cause any of the works mentioned in the first three Clauses of the next preceding Section to be executed, he shall give notice in writing to the Collector of the district of his intention so to do. Upon the receipt of such notice, the Collector shall cause a proclamation to be issued, incorporating the substance of the notice, and calling upon all persons interested, who may be desirous of showing cause against the execution of such works, to appear before him on a certain day to be named therein.

Before taking charge of private embankments, etc., Superintendent to give notice to Collector, who shall issue a proclamation.

Clause. 2.—The proclamation shall be published by affixing the same in the Cutcherry of the Collector, the Mal-Cutcherry (if any) of the estate on which the works are intended to be executed, and on some conspicuous spot in the neighbourhood thereof. The proclamation shall be published not less than fifteen days before the appointed for hearing the parties interested.

Publication of proclamation.

Clause 3.—The Collector shall hear the objections of any parties who may appear, and after recording any evidence which they may adduce, shall communicate the objections that may be made, together with his opinion thereon to the Superintendent of Embankments. If the Superintendent agree in opinion with the Collector, he shall pass an order accordingly. If he differ from the Collector, the case shall be referred to the Commissioner of Revenue, who shall pass such orders thereon as he may deem fit.

Procedure on appearance of parties.

Clause 4.—Every such order passed by the Superintendent shall be appealable to the Commissioner of Revenue and every order of the Commissioner shall be appealable to the Board of Revenue; but no appeal shall lie against any order passed under this Section, unless the same be presented within one month from the date of the order.

Appeal from orders of Superintendent and Commissioner of Revenue.

Clause 5.—Subject to the right of appeal above-mentioned, and to the orders and control of Government, every order passed under this Section shall be final, and shall not be open to revision by any Civil Court, and shall be conclusive as to the necessity of any works ordered to be executed.

Orders not open to revision by the Civil Court.

VI. Whenever the Superintendent of Embankments shall hereafter cause an embankment, which any person is bound to keep up to be taken charge of by the officers of Government, the expense of keeping up such embankment shall be charged to such person. Provided that the amount so charged shall not exceed the reasonable expense of keeping up an embankment of the size and description which such person was bound to keep up, notwithstanding the embankment shall have been enlarged or improved by the officers of Government.

Maintenance of private embankments taken charge of by the Government.

VII. *Clause* 1.—When the Superintendent of Embankments shall enlarge or change the line of any embankment, or make a new embankment to be removed, any person sustaining damages thereby, who, but for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the District, at any time within twelve months after the execution of the work by which he is endamaged, and the Collector thereupon shall report the case for the orders of the superior Revenue authorities. If the claim be

Compensation for damages.

rejected, the claimant shall not be deprived by reason of this Act of any right, which he might otherwise have had, to recover such compensation by a civil action; but such action shall not lie, unless the claimant shall have first preferred his claim to the Collector within the period above-mentioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection. If the claim for compensation be admitted by the Revenue authorities, and the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided, and in no other manner, unless by the consent of the claimant and of the superior Revenue authorities.

Clause 2,—Unless the Collector and the claimant concur in the appointment of a single arbitrator, the Collector on the part of Government, and the claimant, shall each appoint an arbitrator. The appointment shall be in writing and neither of the said parties shall have power to revoke the same without the consent of the other.

Clause 3.—If there be several claimants for compensation in respect to the same injury, and they cannot agree in the appointment of an arbitrator on their behalf, in that case each of them may nominate one person; and the Collector shall choose by lot out of the persons so nominated by the parties or any of them, a person to act as arbitrator on behalf of the claimants. If only one person shall be so nominated, he shall be the arbitrator on behalf of the claimants.

Clause 4—When more than a single arbitrator shall be appointed, the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing a third person to act with them as arbitrator; and in case the arbitrators shall neglect to appoint such third arbitrator for a period of seven days after having been required so to do, the Collector may appoint such third arbitrator. If the arbitrators differ in opinion, or if one of them, having received due notice of a meeting of arbitrators, neglect to attend, any two arbitrators may make an award.

Clause 5.—If any person, on being appointed an arbitrator, shall refuse to act, or after accepting the appointment shall die or become incapable of acting, another person shall be appointed in his stead, in the same manner in which the first person was appointed.

Clause 6.—After the arbitrators have accepted the appointment, the Collector shall be competent to exercise towards them such powers and authority, for securing their attendance and the due completion of their award, as the said Collector may legally exercise towards witnesses summoned before him when acting judicially for the purposes of compelling them to attend and giving evidence.

Clause 7.—If no award be made within a period to be fixed for that purpose by the Collector, he may order that the matter shall be referred to another arbitrator or other arbitrators to be chosen in the same manner and subject to the same rules as the first.

Clause 8.—The Collector shall furnish to the arbitrators, or, so far as may be in his power, procure for them any information which his records or those of any public department may afford connected with the subject of enquiry. He shall on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps, and plans, as they shall require. He shall also cause the proper affirmation to be made and signed by any witness whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to cause such affirmation to be made and signed before him. Any witness who shall refuse or omit to appear when duly summoned by the Collector, or who shall appear but shall refuse to make such affirmation, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before the Collector when acting judicially. Any person giving intentionally and deliberately a false deposition, under an affirmation, in any case referred to arbitration as above, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by law.

Clause 9.—On the close of the enquiry, the arbitrators shall deliver a full and complete award, which shall specify the amount of compensation and the party or parties entitled thereto. The proceedings of the arbitration shall be deposited in the Collector's office; and every party interested therein shall be entitled to a copy of the award on plain paper under the seal and signature of the Collector, which copy shall be *primâ facie* evidence thereof.

Clause 10.—If the right to the compensation awarded shall in any case be doubtful, or if there exist any grounds, which, in the judgment of the arbitrators

or of the Collector, render it improper to make immediate payment thereof to any of the claimants, the amount shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment thereof.

Clause 11.—No award passed under this Section shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators; and no suit to set aside such an award shall be entertained, unless it be instituted within three months from the date of the award. In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators, to be appointed in the same manner as the first.

Clause 12.—All suits and proceedings instituted against Government in any case in which compensation has been awarded, except suits instituted for the reversal of awards as aforesaid, shall be dismissed with costs. But nothing herein contained shall affect the right of any party to recover the amount awarded from any person who may have received the same without any just title thereto.

Clause 13.—In fixing the amount of compensation to which any person may be entitled by reason of any of the acts mentioned in Clause 1 of this Section, the Court or arbitrators, as the case may be, shall take into consideration whether any party to the suit or arbitration has derived or will derive benefit from the act in respect of which the compensation is claimed, and shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed or awarded to that party.

Clause 14.—The provisions of this Section shall not be held applicable to cases in which the compensation to be made has reference only to huts, trees, or crops, which it may be necessary to remove or destroy in enlarging or changing the line of a public embankment. In all such cases the officer in charge of the embankments of the district shall report to the Collector, and the Collector shall thereupon proceed to value and make compensation for such huts, trees, and crops, in the manner prescribed in Section XII of this Act.

Application by land holder to have a sluice made in a public embankment.

VIII. *Clause* 1.—If any landholder, farmer, or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate. The application shall contain such particulars of the land to be drained or irrigated as may enable the officers of Government to judge of the advantage which may be derived from the work, and shall declare, as regards an embankment maintained at the expense of the State, whether the applicant is willing to bear such part, not exceeding half of the cost thereof, as may be determined by Government—and, as regards any other public embankment, whether the applicant is willing to defray the whole or such part of the cost incident to and attendant on the proposed work as may be determined as aforesaid.

Clause 2.—The Collector shall transmit such application to the officer in charge of the embankments of the district, who shall report his opinion thereon to the Superintendent of Embankments, and if he be of opinion that compliance with the application is unobjectionable, shall annex to his report a plan of the proposed work and an estimate of the expense of its construction. The Superintendent of Embankments shall pass such order thereon as he shall think fit, which order shall be final.

Clause 3.—If the construction of the proposed sluice receive the approval of the Superintendent of Embankments, the Collector shall require the applicant to enter into a written agreement to defray the whole or half of the expense, or such portion thereof as may be determined under the provisions of Clause 1 of of this Section, as the case may be; and upon such agreement being executed, shall issue a certificate to the officer in charge of the public embankments of the district, to construct the sluice.

Opening of sluices.

IX. Sluices constructed in any public embankment shall be opened only by or with the permission of the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the officer in charge of the public embankments of the district or from the Superintendent of Embankments.

Officer in immediate charge of embankments may authorize temporary water course, &c., to be made.

X. Whenever any person is desirous that a temporary water-course should be made through, or that a temporary road-way should be made over, any public embankment, or that a temporary dam should be constructed in any embanked river, he shall apply to the nearest officer of the Embankment Department, who shall communicate the application to the officer in charge of the public embankments of the district, and that officer shall pass such orders thereon as he shall think fit, subject to the control of the Superintendent of Embankments. If the proposed work is to be executed by an officer of Government, the applicant, before

the commencement of the work, shall enter into a written agreement to defray the expenses of and incident to making such road-way, or of making and closing or removing such water-course or dam. In any case of emergency the officer in immediate charge of an embankment, subject to such general instructions as he may receive from the officer in charge of the embankments of the district, or from the Superintendent of Embankments, may cause a temporary water-course to be made through such embankments.

Specifications and estimates for maintaining or improving embankments kept up at the expense of Zemindars to be prepared annually, etc.

XI. *Clause* 1.—Specifications of the work and estimates of the expense which may be required for the maintenance or improvement of embankments kept up at the expense of Zemindars or others shall be prepared as soon after the rains in each year as may be practicable. Copies of the specifications and estimates shall be transmitted to the office of the Collector, and may be examined by any person interested in the embankments. Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office, and should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper. Provided, however, that if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent, may appeal to the Commissioner, who, subject to the orders of the Board of Revenue and of Government, may disallow the construction of the work.

Clause 2.—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of Zemindars or others, and in constructing and repairing sluices and making temporary water-courses or roadways through or over any public embankment, or executing any other work the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the office of the Collector, and may be there examined by any person interested. Notice of the receipt of the accounts shall be posted up in the Collector's office; and if within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall enquire into such objection, and, if the objection appear to be well founded, shall communicate the same, with his opinion thereon, to the Superintendent of Embankments. If the Superintendent concur with the Collector, he shall pass orders accordingly; if he differ, the case shall be reported to the Commissioner, whose decision shall be final. When the objection shall have been finally disposed of, or, if no objection be preferred, when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the same, by the process which is or may be in force for the recovery of arrears of Government Revenue.

Superintendent to report to Collector as to removal of buildings, etc.

XII. *Clause* 1.—Whenever the Superintendent of Embankments shall be of opinion, that the removal of any houses, huts, or other buildings situated between a public embankment and the river is necessary, he shall make a report to that effect accompanied by a detailed statement of the houses, huts, or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts, or other buildings stand, is situated.

Clause 2.—When such report is received, the Collector shall cause a notice, containing a general description of the houses, huts, or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest bazar, calling on all persons claiming a right in such houses, huts, or other buildings, to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a jury to be appointed in the following manner.

Clause 3.—The Collector shall direct a Deputy Collector or a principal officer of his establishment, to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a Jury for determining the value of the houses, huts, or buildings, and, if any dispute should arise, the rights of the claimants.

Clause 4.—The Jury shall assess the value of each house, hut, or building separately. If in any cases they differ, the value shall be assessed according to the opinion of the majority; and if they be equally divided, the Deputy Collector or other officer as aforesaid shall have a casting vote.

Clause 5.—Having completed their proceedings, the Jury shall make their award which shall contain a schedule of the houses, huts and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same. The award shall be final and conclusive, and not open to question in the Civil Court. Provided always, that any person who was not present at the enquiry, or whose claim may have been set aside by the Jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

After award Collector to give notice of payment, and to remove buildings, etc., in 30 days.

XIII. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or other officer aforesaid, in person or by authorized agent, at a certain time and place, and receive the amount so awarded, and warning them to remove their houses, huts, or other buildings within thirty days from the date of such notice.

Collector may remove buildings etc., at the cost of the owners, in case they neglect to do so themselves.

XIV. If, on the expiration of the above stated period the houses, huts, or other buildings shall have not been previously removed, the Collector shall cause the same to be removed or levelled; and if any expense be incurred in removing or levelling the same, the Collector may sell the materials at public auction in order to defray the charge, delivering any surplus that may remain to the owner.

Penalty for obstructing officer or person in discharge of duty.

XV. Whoever wilfully obstructs any duly authorized person in removing or levelling any embankment, house, hut, or other building, shall be liable to be imprisoned for any time not exceeding six months, with or without labor, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding six months, or to both.

Wilful damage to embankment by cutting, etc.

XVI. Whoever wilfully, and without due authority, cuts through, or attempts to cut through, any embankment, whether public or private, or destroys, or attempts to destroy any such embankment, or opens any sluice or water-course in any such embankment, shall be liable, on conviction before a Magistrate, to be imprisoned for a term not exceeding one year, with or without labor, or to a fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding one year, or to both; or, if the Magistrate be of opinion that such punishment is insufficient for the offence, he may commit the offender to the Sessions Court, in which case he shall be liable, on conviction, to imprisonment for a period not exceeding seven years with or without labor, or to fine or to both.

Penalty for other wilful damage.

XVII. Whoever damages any public embankment by making any dam or other obstruction for the purpose of diverting or opposing the current of an embanked river without the permission of the Officer in immediate charge of the embankments, or by refusing or neglecting to remove any such dam or obstruction at the proper season, or by cutting or otherwise altering the banks of any embanked river, or by removing the earth from such embankment, or by grazing or tethering any cattle or other animals on any such embankment, or by driving stakes into or cutting or rooting out grass growing on such embankment, or by any other wilful act destroys or diminishes the efficiency of such embankment, shall be liable on conviction before a Magistrate, to simple imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred rupees, or to both.

Jurisdiction of Deputy or Assistant Magistrate.

XVIII. Any Deputy or Assistant Magistrate may take cognizance of offences under this Act, and may punish offenders to the extent of the power conferred upon him by the Regulations of the Bengal Code, and by the Acts of the Governor General of India in Council which respect to the punishment of misdemeanors.

Provision of Sec. 13 Reg. XX. 1817, extended.

XIX. The provision of Section XIII Regulation XX of 1817 shall extend to any charge or information of the offences specified in Section XVI of this Act; and Darogahs and other Police Officers shall enquire into such offences in the mode and subject to the provisions therein prescribed.

Right of appeal.

XX. All sentences and orders passed by a Magistrate, Deputy Magistrate, or Assistant, under this Act, shall be appealable, subject to the general provisions which regulate appeals.

Interpretation.

XXI. In the construction of this Act, words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular; words importing the masculine gender only shall include females; the words "Collector" shall mean any Collector, Deputy Collector, or other Revenue Officer in independent charge of any district or portion of a district.

ACT No. XXXIV. OF 1855.*

1. Court to which application to enforce a judgment of another Court is made, not to inquire into the validity of the judgment. Proviso.
2. Such Court may, in certain cases, stay execution of judgment.
3. Court may, in such cases, take security, &c., from judgment-debtor.
4. Order of Court pronouncing judgment to be binding upon Court enforcing the same.
5. Defendant discharged under this Act liable to be re-taken in execution of the judgment.
6. Act to be taken as part of Act XXXIII of 1852.

An Act to explain and amend Act No. XXXIII of 1852.

WHEREAS doubts have arisen whether a Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII of 1852 has power to inquire into the validity of the judgment: and it is expedient to remove such doubts, and to prevent any such Court from inquiring into the validity of a judgment in respect of which it has no appellate jurisdiction, and to provide for a stay of execution when such Court thinks it reasonable that the validity of the judgment should be inquired into: It is enacted as follows:—

Court to which application to enforce a judgment of another Court is made, not to inquire into validity of the judgment.

I. The Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII of 1852, shall not have power to inquire into the validity of such judgment, unless it appear, upon the face of such judgment, that the Court by which the judgment was given had no jurisdiction to pronouce the same.

Such Court may, in certain cases, stay execution of judgment.

II. The Court to which the application is made may, upon reasonable cause being shown, stay the execution of the judgment for a reasonable time, to enable the judgment-debtor to apply to the Court by which the judgment was given, or to any Court having appellate jurisdiction in respect of the judgment or execution thereof, for an order to stay the execution, or for any other order relating to the judgment or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by the Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the judgment-debtor shall have been seized under an execution, the Court which issued the execution may order restitution of the property, or the discharge of the person of the debtor, in the mean time.

Court may, in such cases, take security, etc., from judgment-debtor.

III. Before making an order to stay execution, or for the restitution of property, or the discharge of the judgment debtor, under this Act, the Court may require such security from, or impose such conditions upon, the judgment-debtor, as it may deem reasonable.

Order of Court pronouncing judgment to be binding upon Court enforcing the same.

IV. Any order of the Court in which the judgment was given, or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last mentioned Court.

Defendant discharged under this Act liable to be re-taken in execution of the judgment.

V. No discharge of a defendant under the provisions of this Act shall prevent him from being re-taken in execution of the judgment.

Act to be taken as part of Act XXXIII. of 1852.

VI. This Act shall be read with, and taken as part of Act No. XXXIII. of 1852.

ACT No. XXXV. OF 1855.

1. Portion of Act repealed.
2. Repeal of so much of Schedule of Act XIV 1836 as allows a drawback.

An Act to abolish the levy of Customs Duty on the import of Cotton into the North-Western Provinces of the Presidency of Bengal.

WHEREAS it is expedient to remove all restrictions to the importation of Cotton into the North-Western Provinces in the Bengal Presidency: It is enacted as follows:—

* This Act has been repealed except so far as relates to judgments of Courts established by Royal Charter.

I. So much of Section II Act No. XIV of 1843 as prescribes the levy of duties of Customs on the import of Cotton, uncleaned or cleaned, into the North-Western Provinces of the Presidency of Bengal, is hereby repealed.

II. So much of Schedule B. Act No. XIV of 1836 as allows a drawback of the land-frontier duty paid upon Cotton-wool is hereby repealed from the first day of July 1856.

ACT No. XXXVI OF 1855.*

1. Particulars to be recorded by Officer on receipt of information as to unlawful manufacture of Salt, &c.
2. Officer thereon may summon Police and proceed to search a house for contraband Salt. Proviso.
3. Officer may break open doors.
4. Rules regarding forcible entry. Proviso.
5. What to be deemed contraband Salt.
6. Penalty, if Police Officer refuse or neglect to attend or aid in search or seizure.
7. Penalty for vexatious search, and for giving false information.
8. Every case of search to be reported to superior Officers.
9. What to be deemed a manufacture of Salt.

An Act to empower Officers of Customs and Land Revenue to search houses and other enclosed places for contraband Salt in the North-Western Provinces.

WHEREAS the existing laws do not empower Officers of Customs or Land Revenue in the North-Western Provinces of the Presidency of Bengal to search houses and other enclosed places for Salt manufactured or stored contrary to the provisions of Act XIV of 1843, and it is expedient to give them power to do so; It is enacted as follows :—

Particulars to be recorded by Officer on receipt of information as to unlawful manufacture of Salt, etc.

I. Whenever any Collector or other Officer of Custom or Land Revenue, not being under the grade of Assistant Patrol in the Customs department, or of Naib Teliseeldar in the Revenue department, receives credible information that within his jurisdiction, Salt is unlawfully manufactured, in any dwelling-house, warehouse, or other enclosed place, or that Salt is unlawfully stored in any such house or place within the limits of Customs jurisdiction as defined by the Government of the North-Western Provinces of the Presidency of Bengal under the provision of Section III of Act XIV of 1843, he shall first record in writing the name residence, and calling of the informant, the locality and description of the house, or place where he believes the Salt to the manufactured or stored, and the name of the owner or occupant of such house or place or the name of the person for or by whom such Salt is manufactured or stored, and with respect to Salt stored the supposed quantity and description of such Salt with the grounds for believing the same to be contraband.

Officer thereon may summon Police and proceed to search a house for contraband Salt.
Proviso.

II. The said officer, after recording the particulars aforesaid, may summon from the nearest Police Station a Police Officer, not being under the grade of a Jemadar, to attend him, and with such Police Officer and informant proceed to the said house or place, and in their presence search the same for salt unlawfully manufactured or stored; provided that such search be not made between sunset and sunrise.

Officer may break open doors.

III. The said Officer, in company with such Police Officer, may break open the door or force an entry within the said house or place, if, upon requisition duly made the door be not opened, or admission be refused, by the owner or occupant thereof.

IV. Repealed by Act XIX 1862, *Sec.* 2*

What Salt to be considered contraband.

V. No Salt found stored in any house or place within the limits of Customs jurisdiction mentioned in Section I of this Act, not being Salt unlawfully manufactured thereat, shall be deemed contraband, unless the quantity found shall exceed five seers in weight.

Penalty if Police Officer refuses or neglects to attend or aid in search or seizure.

VI. Whoever, being a Police Officer summoned under Section II, fails to attend himself or to depute a subordinate Police Officer, not being below the grade

* Extended by Act XIX. of 1862 to the province of Oude, also to Central Provinces as regards Section I, II, III, V, VI, VII, VIII and IX by VII. 1864, and to salt extracted in the manufacture of Saltpetre by Sections 8 and 9 of Act XXXI. of 1861.

of a Jemadar, to attend and any Police officer who after attending refuses to aid in the search for, or seizure of, contraband Salt, or in any way wilfully frustrates the object of the search or seizure, shall on conviction before a Magistrate, be liable, besides being dismissed from office, to a fine equal to the amount of fine that would have been leviable on the owners or holders of the Salt, if it had been seized according to the information laid.

Penalty for vexatious search or for any false information.

VII. Any Officer of customs or Land Revenue, vested with power to carry into effect the provisions of this Act, who, under cover thereof, searches or causes to be searched any dwelling-house, ware-house or other enclosed place, without reasonable grounds of suspicion that contraband Salt is there manufactured or stored, shall, upon conviction before the Magistrate within whose jurisdiction the offence may have been committed, be punished with fine not exceeding five hundred rupees, which fine, or any portion thereof, may be paid over to the party aggrieved, and, in default of payment of such fine, with imprisonment for a period not exceeding six months ; and any person wilfully and maliciously giving false information, and so causing a search to be made in any dwelling-house, ware-house or other enclosed place, to the injury or vexation of the owners, occupants, or any other person or persons whatsoever, shall, on conviction before a Magistrate, be liable to the same penalty and also to imprisonment for a period not exceeding two years, with or without hard labour.

Every case of search to be reported to superior Officers.

VIII. Every search under this Act, whether the result thereof be the seizure of contraband Salt or otherwise, shall be reported within forty-eight hours by the Officer of Customs or Land Revenue and by the Officer of Police present at the search to their respective official superiors.

What to be deemed a manufacture of Salt.

IX. The purification or refinement of impure Salt, obtained in the manufacture of Saltpetre, so as to produce alimentary Salt, shall be deemed a manufacture of Salt within the meaning of this Act and of Act XIV. 1843.

ACT No. XXXVII. OF 1855.

1. *Certain Districts removed from the operation of the general Regulations of the Bengal Code. Proviso.*
2. *Administration of justice and collection of Revenue vested in special Officers. Proviso as to suits exceeding the value of Rs. 1,000. Collection of permanently settled Land Revenue.*
3. *Mode of administering Civil and Criminal justice.*
4. *Decisions to be final. Proviso.*
5. *Saving of laws relating to European British subjects.*
6. *Act when to take effect.*

An Act to remove from the operation of the general Laws and Regulations certain Districts inhabited by Sonthals and others, and to place the same under the superintendence of an Officer to be specially appointed for that purpose.

WHEREAS the general Regulations and Acts of Government now in force in the Presidency of Bengal are not adapted to the uncivilized race of people called Sonthals, and it is therefore expedient to remove from the operation of such laws the district called the Damun-i-Koh, and other districts which are inhabited principally by that tribe : It is enacted as follows :

Certain Districts removed from the operation of the general Regulations of the Bengal Code.

Proviso.

I. *Clause* 1.— The districts described in the Schedule* to this Act are hereby removed from the operation of the general Regulations of the Bengal Code and of the laws passed by the Governor General of India in Council, except so far as is hereinafter provided ; and no law which shall hereinafter be passed by the Governor General of India in Council shall be deemed to extend to any part of the said districts. unless the same shall be specially named therein. Provided that nothing herein contained shall extend to or affect any case now pending in any Court, nor remove any part of the said districts from the operation of Regulation X of 1804 of the Bengal Code ; nor shall this Act affect any Revenue Settlement, nor any law relating to the recovery of permanently settled Land Revenue due under the same, nor any law relating to the sale of lands for arrears of Revenue,

* See Act X, 1857.

or relating to Putnee Talooks, or to the sale thereof for arrears of rent, nor any law relating to Mutations or Butwara, or to any other matter to which the Lieutenant Governor of Bengal shall at any time notify in the *Calcutta Gazette* that the General Laws and Regulations shall extend.

Clause 2.—*Repealed by Act X. of 1870.*

II. The administration of Civil and Criminal justice and the collection of the Revenue, not being permanently settled Land Revenue, within the said districts, are hereby vested in the Officer or Officers to be so appointed. Provided that all Civil suits in which the matter in dispute shall exceed the value of one thousand Rupees, shall be tried and determined according to the general Laws and Regulations in the same manner as if this Act had not been passed. Provided also, that all permanently settled Land Revenue shall be collected and paid at the same places and in the same manner as if this Act had not been passed.

Administration of justice and collection of Revenue vested in Officers.

Proviso.

III. Repealed by Act X. of 1870.

IV. *Clause* 1.—All decisions in Civil suits and sentences in Criminal cases, which shall be passed by such Officer or Officers, to the extent of the powers which may be from time to time conferred upon them respectively by the Lieutenant Governor of Bengal, according to the provisions of this Act, shall be final. Provided that no sentence of death, passed by any such Officer, shall be carried into effect until it shall have been confirmed by the Sudder Court, and provided also that it shall be lawful for the said Lieutenant Governor to direct that an appeal shall lie in any class of Civil suits of Criminal trials from any Officer appointed under this Act to any other Officer appointed under the same, and also to direct the Officer or Officers appointed under this Act to refer to the Sudder Court for sentence any class of Criminal trials.

Decisions to be final.

Proviso.

Clause 2.—Repealed by Act X. of 1870.

V. Repealed by Act X. of 1870.

VI. Repealed by Act XIV. of 1870.

SCHEDULE.

Repealed by Act X, 1857.

ACT No. III OF 1856.

1. *Powers and duties of Commissioner of Abkaree vested in Commissioner of Revenue.*
2. *Abkaree officers empowered to make arrests in certain cases.*

An Act to amend Act No. XI of 1849 and Act No. XIX of 1852.

WHEREAS the office of Commissioner for the superintendence of the Abkaree Revenue, heretofore existing under Act No. XXV of 1840, has been abolished, and it is expedient to make provision for the exercise of the powers and duties vested by Act No. XI of 1849 in the Commissioner of Abkaree ; and whereas it is also expedient to declare the powers of Abkaree Officers to make arrests in certain cases ; It is enacted as follows :—

I.* The Commissioner of Revenue of the Division within which the Town of Calcutta is or may be situated, shall posses the powerss and perform the duties vested by Act No. XI of 1849 in the Commissioner of Abkaree.

II. Whenever an Abkaree Officer shall, under Section XIX, Act XI of 1849 or Section XIX, Act XIX, of 1852, seize any spirituous or fermented liquors or intoxicating drugs as liable to confiscation, he may also arrest the person in whose possession such liquors or drugs may be found ; all the provisions of the aforesaid Acts relative to arrests shall be applicable to arrests made under this Act.

ACT No. IX OF 1856.

1. *Rights under Bills of Lading to vest in consignee or endorsee.*
2. *Not to effect right of stoppage in transitu or claims for freight.*
3. *Bill of Lading in hands of consignee, &c., conclusive evidence of the shipment as against Master, &c. Proviso.*

An Act to amend the law relating to Bills of Lading.

WHEREAS by the custom of Merchants a Bill of Lading of goods being transferable by endorsement, the property in the goods may thereby pass to the endorsee, but nevertheless all rights in respect of the contract contained in the Bill of Lading continue in the original shipper or owner, and it is expedient that such rights should pass with the property ; and whereas it frequently happens that the goods in respect of which Bills of Lading purport to be signed have not been laden on board, and it is proper that such Bills of Lading in the hands of a *bonâ fide* holder for value should not be questioned by the Master or other person signing the same, on the ground of the goods not having been laden as aforesaid : It is enacted as follows :—

I. Every consignee of goods named in a Bill of Lading, and every endorsee of a Bill of Lading to whom the property in the goods therein mentioned shall pass upon or by reason of such consignment or endorsement, shall have transferred to and vested in him all rights of suit, and be subject to the same liabilities in respect of such goods, as if the contract contained in the Bill of Lading had been made with himself.

II. Nothing herein contained shall prejudice or affect any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason or consequence of such consignment or endorsement.

III. Every Bill of Lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel, shall be conclusive evidence of such shipment as against the Master or other person signing the same, notwithstanding that such goods or some part thereof may

* See Act XXI. 1856, Sec. 3.

not have been so shipped, unless such holder of the Bill of Lading shall have had actual notice at the time of receiving the same that the goods had not in fact been laden on board. Provided that the Master or other person so signing may exonerate himself in respect of such misrepresentation, by showing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or some person under whom the holder claims.

ACT No. XI. OF 1856.

1. *Penalty on Master in certain cases if a deserter be concealed on board his ship. Proviso. Charge may be in the alternative.*
2. *Jurisdiction.*
3. *Conviction to be quashed on merits only: form of conviction, &c.*
4. *Saving of proceedings under Act No. XIV of 1849. Proviso.*
5. *Commanding Officer may issue warrants for apprehension of deserters.*
6. *Warrant to whom to be addressed, and by whom to be executed.*
7. *Persons apprehended how to be dealt with, &c.*

An Act for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty in India.

WHEREAS it is expedient to make better provision for apprehending and detaining European deserters from the Land Forces in the service of Her Majesty in India, and for punishing persons who aid and encourage such deserters: It is enacted as follows:—

Penalty on the Master if a deserter be found concealed on board his ship.

I. If it shall appear that any Officer or soldier, being a deserter from the said Forces, has been concealed on board any merchant vessel, and that the master or person in charge of such vessel for the time being, though ignorant of the fact of such concealment, might have known of the same but for some neglect of his duty as such master or person, or for the want of proper discipline on board his vessel, such master or person shall be liable to a fine not exceeding five hundred Rupees. Provided always, that no conviction for such offence, as is hereinbefore described, shall be lawful, unless the same shall be stated in the charge which the party is called upon to answer; and in such charge it shall be lawful to state in the alternative that the party has either knowingly harboured or concealed a deserter on board his vessel, or has, by neglect of duty or by reason of the want of proper discipline on board the vessel, allowed such deserter to be so concealed.

Jurisdiction.

II. Any person, whether a European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punishable for the same by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay, or for any of the Settlements of prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint Magistrate, or person lawful exercising the powers of a Magistrate in any port within the territories of the East India Company, within whose jurisdiction the offence may have been committed, or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such Officer or not; and any person hereby made punishable by a Justice of the Peace shall be punishable on summary conviction.

Conviction to be quashed on the merits only.

III. No condition, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure but only on the merits; and it shall not be necessary to state on the face of the conviction, order or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order or judgment, in obedience to any writ of *certiorari;* and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment, shall be aided by what so appears in such depositions.

Saving of proceedings under Act XIV 1849.

IV. Nothing in this Act contained shall prevent any Justice of the Peace, Magistrate, or other office having authority in that behalf, from committing for trial any person who shall be charged with an offence punishable under Act No. XIV of 1849, or any other Act hereafter to be in force, notwithstanding that such offence may be also punishable under this Act, provided that no proceedings shall have been had against such person in respect of the same offence under this Act.

Commanding Officer may issue warrants for apprehension of deserters.

V. Whenever, on information given on oath or solemn affirmation, where by law a solemn affirmation may be used instead of an oath, to the commanding Officer of any fort, garrison, station, regiment, or detachment, at any port or place within the territories of the East India Company, in which no person lawfully exercising magisterial powers can be found, which oath or affirmation the several persons above-named shall severally under this Act have power to administer; or whenever, on such information as aforesaid given to any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, having jurisdiction within such port or place, there shall appear reason to suspect that any European Officer or Soldier belonging to the said Force, who may have deserted or be absent without leave, is on board any ship, vessel or boat, or is concealed on shore at any such port or place within the territories of the East India Company, it shall be lawful for such Commanding Officer or Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate as aforesaid, to issue a warrant authorizing the person or persons to whom such warrant may be addressed, to enter into and search, at any time of the day or night, any such ship, vessel or boat, or any house or place on shore, and to apprehend any such Officer or Soldier, and to detain him in custody in order to his being dealt with according to law.

Warrant to whom to be addressed and by whom to be executed.

VI. The warrant to be issued under the preceding Section may be addressed to any European Officer, or Soldier of the said Forces, or to all constables, peace officers, and other persons who may be bound to execute the warrant of any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate and acting in the excution of this Act; and all such persons shall be bound to execute, perform, and obey such warrant.

Persons apprehended how to be dealt with.

VII. Every person who shall be apprehended under any warrant under the 5th Section of this Act, shall be brought without delay before a Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, in or near the place wherein such person shall have been arrested, who shall examine such person, and, if he shall be satisfied either by the confession of such person or the testimony of one or more witness or witnesses or by his own knowledge, that such person is a deserter from the said Forces, shall cause him to be delivered, together with any depositions and papers relative to the case, to the Commanding Officer of the regiment, corps, or detachment to which he shall belong, if the same shall be in or near the place of such arrest, or if otherwise, then to the Commanding Officer of the nearest military station, in order that he may be dealt with according to law.

ACT No. XII OF 1856.

1. Regulations repealed.
2. Civil Court Ameens to be appointed.
3. Civil Court Ameens by whom to be appointed, and to what Courts to be attached.
4. Declaration to be made by Civil Court Ameens.
5. Duties of Civil Court Ameens.
8. Expense of Civil Court Ameens how to be charged.
9. When employed to sell property, deduction to be made from proceeds. Expenses, if no sale takes place.
10. Civil Courts in the North-Western Provinces may employ Revenue Officers in certain cases.

An Act to amend the law respecting the employment of Ameens by the Civil Courts in the presidency of Fort William.

WHEREAS the law by which the Civil Courts are authorized to employ Ameens upon local investigations is defective and requires amendment; and whereas, in consequence of the extended jurisdiction which has been given to Moonsiffs and the change which has been made in the constitution of the office, it is no longer expedient that Moonsiffs should be employed in the attachment and sale of personal property, nor, except on rare and special occasions, in any of the duties enumerated in Sections L, LI, and LIII, Regulation XXIII, 1814;

and it is necessary to make provision for the performance of those duties by other agency: It is enacted as follows :—

Ameens to be appointed.

II. In each district Officers to be designated Civil Court Ameens shall be appointed for the purposes of this Act, and shall be remunerated by fixed monthly salaries. The number of Ameens to be employed in each district, and the salaries to be allowed to them, shall be determined by the Local Government, with the sanction of the Governor General of India in Council.

Civil Court Ameens by whom to be appointed and to what Courts to be attached.

III. The Civil Court Ameens shall be appointed by the Judge of the district with the sanction of the Court of Sudder Dewanny Adawlut, and the Judge shall from time to time attach them to the several Courts of the District according as the estate of business may require. Provided that an Ameen attached to and particular Court may, with the sanction of the Judge, be employed occasionally by any other Court.

Declaration to be made by Civil Court Ameens.

IV. Before entering upon the duties of their office, the Civil Court Ameens shall subscribe a declaration in the following form :—

I, A. B., appointed to the office of Civil Court Ameen, solemnly declare that, in the performance of the duties of my office, I will act according to the best of my abilities and judgment, without partiality, favor, or affection; and that I will not directly or indirectly receive for my own benefit, or knowingly permit any other person to receive on my behalf, any money, effects, or property on account of any duty which I may have to execute, except the authorized allowances of my office.

Duties of Civil Court Ameens.

V. Subject to such general directions and restrictions as may from time to time be prescribed by the Sudder Court, the Civil Court Ameens may be employed in any of the following duties :—

1. In investigating or adjusting accounts in any suit or other judicial proceeding.

2. In making local investigations when the Court may deem investigation on the spot to be requisite and proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of mesne profits or damages, in any suit or other judicial proceeding.

3. In delivering over possession of lands, houses, and other immoveable property, in execution of decrees or orders of Court.

4. In the sale of moveable property, and of houses, gardens, and other immoveable property of the kind described in Section III, Regulation VII 1825.

5. In ascertaining the sufficiency of sureties and the means of persons suing in *formâ pauperis.*

VI. Repealed by Act X. 1861.

VII. Repealed by Act X. 1861.

Expense of Civil Court Ameens how to be charged.

VIII. Whenever a Civil Court Ameen may be employed on any duty connected with a pending suit, or the execution of a decree, except the sale of a property, the Court shall estimate the time which the duty may be expected to occupy, and shall charge for the expense of the Ameen such fixed rate *per diem* as may be determined by the Sudder Court. The amount shall be paid into Court by the party at whose instance or for whose benefit the Ameen is deputed, and shall be added to the costs of suit.

When employed to sell property, deduction to be made from proceeds. Expenses, if no sale takes place.

IX. When a Civil Court Ameen shall be employed to sell property, a deduction at the rate of one anna in the Rupee shall be made from the proceeds of the sale. If no sale takes place by reason of the claim being satisfied, or for any other cause, a charge shall be made for the expenses of the Ameen according to the time he may be employed. A deposit to meet this charge, calculated in the manner prescribed in the preceding Section, shall be made before the Ameen is deputed, and shall be returned to the depositor if the sale takes place. All sums paid for the employment of Ameens, and all sums deducted from the proceeds of sales, shall be credited to Government.

Civil Courts in the N. W. P., may employ Revenue Officers in certain cases.

X. Nothing contained in this Act shall be held to prohibit the Civil Courts in the North-Western Provinces of the Presidency of Fort William from making use of the agency of the Revenue Officers in investigations and adjustments of accounts connected with land paying revenue to Government under such general directions as may from time to time be prescribed by the Sudder Court. Whenever a Tuhseeldar, or a Peshkar, shall be employed in any such investigation or adjustment under the orders of a Civil Court, he shall possess all the powers vested in Civil Court Ameens by Section VII of this Act; and the provisions of the said Section shall be applicable to the proceedings held by such Officer.

ACT No. XV. OF 1856.

1. Marriage of Hindoo widows legalized.
2. Rights of widow in deceased husband's property to cease on her re-marriage.
3. Guardianship of children of deceased husband on the re-marriage of his widow.
4. Nothing in this Act to render any childless widow capable of inheriting.
5. Saving of rights of widow marryiag, except as provided in the three preceding Sections.
6. Whatever ceremonies now constitute a valid marriage shall have the same effect on the marriage of a widow.
7. Consent to re-marriage of a widow who is a minor. Punishment for abetting marriage made contrary to this Section. Effect of such marriage. Proviso.

An Act to remove all legal obstacles to the marriage of Hindoo Widows.

WHEREAS it is known that, by the law as administered in the Civil Courts established in the territories in the possession and under the government of the East India Company, Hindoo widows, with certain exceptions, are held to be, by reason of their having been once married, incapable of contracting a second valid marriage, and the offspring of such widows by any second marriage are held to be illegitimate and incapable of inheriting property; and whereas many Hindoos believe that this imputed legal incapacity, although it is in accordance with established custom, is not in accordance with a true interpretation of the precepts of their religion, and desire that the Civil law administered by the Courts of justice shall no longer prevent those Hindoos who may be so minded from adopting a different custom, in accordance with the dictates of their own consciences: and whereas it is just to relieve all such Hindoos from this legal incapacity of which they complain; and the removal of all legal obstacles to the marriage of Hindoo widows will tend to the promotion of good morals and to the public welfare: It is enacted as follows:—

Marriage of Hindoo widows legalized.

I. No marriage contracted between Hindoos shall be invalid, and the issue of no such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, any custom and any interpretation of Hindoo law to the contrary notwithstanding.

Rights of widow in deceased husband's property to cease on her re-marriage.

II. All rights and interest which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall, upon her re-marriage, cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

Guardianship of children of deceased husband on the re-marriage of his widow.

III. On the re-marriage of a Hindoo widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband, the guardian of his children, the father or paternal grandfather, or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in Civil cases in the place where the deceased husband was domiciled at the time of his death, for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who, when appointed, shall be entitled to have the care and custody of the said children, or of any of them, during the minority, in the place of their mother; and in making such appointment the Court shall be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother. Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother, unless the proposed guardian shall have given security for the support and proper education of the children whilst minors.

Act not to render any childless widow capable of inheriting.

IV. Nothing in this Act contained shall be construed to render any widow, who, at the time of the death of any person leaving any property, is a childless widow, capable of inheriting the whole or any share of such property, if, before the passing of this Act, she would have been incapable of inheriting the same by reason of her being a childless widow.

V. Except as in the three preceding Sections is provided, a widow shall not, by reason of her re-marriage, forfeit any property, or any right to which she would otherwise be entitled ; and every widow who has re-married shall have the same rights of inheritance as she would have had, had such marriage been the first marriage.

Saving of rights of widow marrying except as before provided.

VI. Whatever words spoken, ceremonies performed, or engagements made, on the marriage of a Hindoo female who has not been previously married, are sufficient to constitute a valid marriage, shall have the same effect, if spoken, performed, or made on the marriage of a Hindoo widow ; and no marriage shall be declared invalid on the ground that such words, ceremonies, or engagements are inapplicable to the case of a widow.

Whatever ceremonies now constitute a valid marriage shall have the same effect on the marriage of a widow.

VII. If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or failing all these, of her elder brother, or failing also brothers, of her next male relative. All persons knowingly abetting a marriage made contrary to the provisions of this Section shall be liable to imprisonment for any term not exceeding one year, or to fine, or to both. And all marriages made contrary to the provisions of this Section may be declared void by a Court of law. Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this Section, such consent as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated. In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

Consent to re-marriage of a widow who is a minor. Punishment for abetting marriage made contrary to this Section. Effect of such marriage.

Proviso.

ACT No. XVIII. OF 1856.

1. Regulations modified.

2. Collection of Stamp Duty in Calcutta to be ordinarily in charge of the Collector.

3. Collector may entrust any part of his duties to his Deputy.

An Act relating to the administration of the Public Revenues in the Town of Calcutta.

WHEREAS it is expedient that the Collector of Calcutta should have charge of the collection of the Stamp Duty within the town of Calcutta, and that he should have power to employ any Deputy Collector subordinate to him, in the performance of any part of the duties of his office : It is enacted as follows :— *

I. Such part of Section IV, Regulation XII, 1826 of the Bengal Code, and such part of Section VI of a Rule, Ordinance and Regulation for the Town of Calcutta made and passed on the 14th day of June 1827, as prescribed that an officer, being a Civil Servant of the Honorable Company, shall be specially appointed by the Governor General in Council to take charge of the collection of the Stamp Duty within the City of Calcutta, are declared subject to the following modification.

II. Repealed by Act XVIII. of 1869.

III. It shall be lawful for the Collector of Calcutta to employ any Deputy Collector subordinate to him, in the performance of any part of the duties of his office under the said Regulation, or under Act XI of 1849, or Act XXIII of 1850; and all Rules, Regulations, and Acts relating to the office of Deputy Collector, shall be of the same force within the Town of Calcutta as in other parts of the territories subject to the Presidency of Fort William in Bengal.

* So much of this preamble as relates to Stamp Duty is repealed by Act XVIII. of 1869.

ACT No. XX. OF 1856.*

1. *Laws repealed. Existing assessment to continue to be levied until revised according to this Act.*
2. *To what places the Act shall apply. Proviso.*
3. *Unions may be formed.*
4. *Government may define limits of cities, towns, &c.*
5. *Houses let to lodgers how to be assessed.*
6. *Penalty for removing, &c., name of street or number of house.*
7. *Magistrate to determine number of Chowkeydars. Proviso.*
8. *Grades and wages of Chowkeydars.*
9. *Magistrate to determine the sum to be raised annually.*
10. *Nature of the tax to be levied.*
11. *Limitation of tax.*
12. *Rate how to be ascertained.*
13. *Magistrate may exempt occupiers unable to pay the assessment or rate.*
14. *Constitution of Punchayets. Magistrate may appoint a person not residing in the place to be a member of Punchayet.*
15. *Duties of Punchayets. Form of Magistrate's requisition.*
16. *Punchayet may revise existing assessment or rate.*
17. *Magistrate may amend and settle assessment or rate as revised by the Punchayet.*
18. *Assessment or rate to be published.*
19. *Assessment or rate to stand good for one year. Change of occupation before a new assessment or rate. Revised assessment or rate to be deemed a new one. Proviso.*
20. *Appeal from assessment or rate. Limitation of appeal.*
21. *Commissioner of Circuit may direct revision of assessment or rate.*
22. *Magistrate may direct revision at any time of the year, for reasons to be stated.*
23. *Publication of assessment or rate as revised under the two last Sections.*
24. *Penalty for refusal to serve on Punchayet.*
25. *If Punchayet refuse or omit to act, Magistrate may assume their functions. Proviso.*
26. *Residents only bound to act on a Punchayet.*
27. *Duration of Punchayet and limitation of service thereon.*
28. *Member of Punchayet removable only on application of ratepayers.*
29. *Vacancies in Punchayet how to be supplied.*
30. *Punchayet to report misconduct of Chowkeydars,—or death or absence.*
31. *Appointment and duty of Sudder Punchayet.*
32. *Appointment and registry of Chowkeydars.*
33. *Appointment of Jemadars and Inspectors.*
34. *Appointment of Tax Collectors and other establishment.*
35. *Contingent expenses.*
36. *Surplus funds may be devoted to Conservancy purposes.*
37. *To prepare assessment lists.*
38. *To collect assessment.*
39. *To remit collections to the Magistrate.*
40. *To prepare summons, &c.*
41. *To report defaulters to Magistrate.*
42. *Summons of defaulters.*
43. *Assessment to be levied from defaulters by distress and sale.*
44. *Sale how to be conducted. Proceeds how to be applied. Returns of sale. Costs.*
45. *Penalty for Tax-Darogah purchasing at such sales.*
46. *Sale of property beyond limits of towns, &c.*
47. *All goods found on premises liable to sale. But owner of goods to be indemnified by the defaulter.*
48. *Penalty for obstructing Tax-Darogah in execution of duty.*
49. *Magistrates to try complaints against Tax-Darogah of extortion, &c. Penalty for extortion, etc. Proviso.*
50. *Powers, duties, and liabilities of Chowkeydars, Jemadars, and Inspectors.*
51. *Chowkeydars to wear badges.*
52. *Duties of Chowkeydars.*

* Sections 9, 10, 11, 12, 13 and 36 and so much of this Act as refers to the collection of the taxes therein mentioned, to have no effect in places to which Act III. 1864 may be extended. This Act to have no effect in places to which Act VI. 1868 B. C., is extended.

53. All persons required to assist Chowkeydars in making arrests.
54. Chowkeydars, &c., how to be paid.
55. Punishment of Chowkeydars for neglect of duty, &c.
56. Suspension or dismissal of Police Officers.
57. Fines how to be disposed of.
58. Jurisdiction.
59. Proceedings of Magistrate and Commissioner of Circuit respectively subject to control of Local Government.
60. Act not to apply to Town of Calcutta.
61. Interpretation of Act.

An Act to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs, and Bazaars in the Presidency of Fort William in Bengal.

WHEREAS it is expedient to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs, and Bazaars in the Presidency of Fort William in Bengal: It is enacted as follows :—

Laws repealed. Existing assessment to continue to be levied until revised according to this Act.

I. * * * * the monthly assessment levied, under Regulation XXII. 1816, and Act XV. of 1837, in any city or station at the time of the passing of this Act, shall continue to be levied until the same shall be revised and altered under the provisions of this Act.*

To what places the Act shall apply.

II. The provisions of this Act shall have effect in the cities and stations in which the said Regulation XXII. 1816 has heretofore been in force, and in every other City. Station, Town, Suburb, and Bazaar in the said Presidency, to which the Local Government at any time may extend the same by notification in the Official Gazette. Provided always, that this Act shall not be extended to any city, town, suburb, or bazaar unless there be therein (or in some other city, town, suburb, or bazaar with which the same may be united as hereinafter provided) a Police Station under an officer of a grade not below that of Jemadar, nor to any agricultural village.

Proviso.

Unions may be formed.

III. The Government may, by notification to be published in the Official Gazette, unite, for the purposes of this Act, any city, town, suburb, station, or bazaar, or any part or parts of a city, town, suburb, station or bazaar and in such case all the provisions of this Act applicable to a city, town, suburb, station, or bazaar shall apply to such union.

Government may define limits of cities, towns, etc.

IV. For the purposes of this Act the Local Government may define and declare the limits of any city, town, suburb, station, bazaar, or union, and all occupiers of houses within any such city, town, suburb, station, bazaar, or union as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act, for the purpose of maintaining the Chowkeydars appointed to be maintained in such city, town, station, suburb, bazaar, or union.

Houses let to lodgers how to be assessed.

V. If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house.

Penalty for removing, etc., name of street or number of house.

VI. The Magistrate may cause a name to be given to any street and affixed in place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mohulla, for the purpose of identifying such house; and if any person shall wilfully remove, obliterate, or destroy such name or number, he shall be liable, on conviction by Magistrate, to a fine not exceeding twenty Rupees.

VII. Repealed by Act VI. of 1867 of the Bengal Council.
VIII. Ditto ditto.
IX. Ditto ditto.

Nature of the tax to be levied.

X. The tax to be levied in any city, town, or other place as aforesaid, for the purposes of this Act, may be either an assessment according to the circumstances and the property to be protected of the persons liable to the same, or a rate on houses and grounds according to the annual value thereof. The Local Government, on the report of the Magistrate and Commissioner of Circuit, shall determine in each case whether the tax to be levied shall be such assessment or such rate.

XI. Repealed by Act VI. of 1867 of the Bengal Council.

Rate how to be ascertained.

XII. For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon

* The words omitted from this section have been repealed by Act XIV. of 1870.

an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year. Grounds used for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable.

Magistrate may exempt occupiers unable to pay.

XIII. The Magistrate may, at his discretion, exempt from the assessment or rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from poverty to pay the same.

Constitution of Punchayets. Magistrate may appoint a person not residing in the place to be a member of Punchayet.

XIV. For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a Punchayet for each such city, town, or other place as aforesaid, or, when he may see fit to divide any such city, town, or place into convenient divisions, for each division thereof, and shall issue a sunnud of appointment, specifying the names, residence, business, or other description of the persons appointed and the period for which the appointment is made. Every Punchayet shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town, or other place, or in or near to any such division thereof. Provided that instead of any one such person, the Magistrate may appoint any person who may be fit to be a member of the Punchayet, notwithstanding such person may not reside or carry on business in or near to such city, town, or other place, or in or near to any such division thereof.

Duties of Punchayets. Form of Magistrates requisition.

XV. The Punchayet so appointed, or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rate in respect of their occupation of property within the district (whether city, town, or other place as aforesaid, or any division thereof) for which the Punchayet shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business, or other description of such occupier, the property occupied, and the amount payable monthly by such occupier. If the tax be a rate on the annual value of the property occupied, such annual value and the total amount of the annual rate shall also be specified. The requisition of the Magistrate to the Punchayet to make out such list shall be in the form marked A, or B., as the case may be, set forth in the Appendix to this Act annexed, or to the like effect.

Punchayets may revise existing assessment or rate.

XVI. The Punchayet shall, if required by the Magistrate so to do, instead of making a new assessment or rate, revise and amend the assessment or rate then in force.

Magistrate may amend revised assessment.

XVII. When an assessment or rate shall have been made or revised, as the case may be, the Punchayet shall forward to the Magistrate the list containing the same; and the Magistrate shall revise, and, if necessary, amend and settle it.

Assessment or rate to be published.

XVIII. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a Notification prepared according to the formed marked C. in the Appendix to this Act, or to the like effect, and written in the language of the Province in which the city, town, or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made; and another copy, together with a like Notification, at the nearest Police thanna; and shall also cause a third copy to be deposited in his own office.

Assessment or rate to stand good for one year. Change of occupation before a new assessment etc. Revised assessment, &c., to be deemed a new one.

XIX. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof; and, after Notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier. Every assessment or rate which shall be revised according to the provisions of Section XVI. shall be deemed a new assessment or rate.

Proviso.

Provided always, that, if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be re-published according to the provisions of Section XVIII, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding Section.

Appeal from assessment or rate. Limitation of appeal.

XX. Any person assessed or rated, who shall be dissatisfied with his assessment or rate, or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate, or amend the same. In case the Magistrate confirms the assessment or rate he may award costs against the appellant. The decision of the Magistrate in such cases shall be final, and no objection shall be taken to

any assessment or rate, nor shall the liability of any person to be assessed or rated be questioned in any other manner or by any other Court. Provided that no appeal shall be received after the expiration of one month from the time of the Notification of the assessment or rate prescribed by Section XVIII. or of the Notification of the substitution of the name of an occupier under Section XIX unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal.

Commissioner of Circuit may direct revision.

XXI. The Commissioner of Circuit, with the consent of the Local Government, may at any time direct the Magistrate to revise the assessment or rate of any city, town, or other place as aforesaid, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise and, if necessary, amend the same.

Magistrate may direct revision at any time of the year, for reasons to be stated.

XXII. The Magistrate may require the Punchayet to revise the assessment or rate at any period during the year; but on every such occasion he shall address a written order to the Punchayet, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period.

Publication of assessment or rate as revised under the two last Sections.

XXIII. Whenever any assessment or rate is revised during the year as provided in the two last preceding Sections, a revised list, together with a Notification as prescribed in Section XVIII. shall be prepared and published in the manner therein directed. And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in Section XX.

Penalty for refusal to serve on Punchayet.

XXIV. If any person appointed a member of a Punchayet refuse to undertake the office, or omit to perform the duties thereof. and do not, within fifteen days from the date of his appointment, show satisfactory grounds for his refusal or omission, or provide such a substitute as the Magistrate appoves, the Magistrate may fine such person in a sum not exceeding fifty Rupees.

If Punchayet refuse or omit to act, Magistrate may assume their functions.

Proviso.

XXV. If the persons appointed a Punchayet, or a majority of them, refuse, or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may himself make or revise the assessment or rate, and may enforce the same, as if it had been made or revised in the first instance by the Punchayet. Provided that the functions of the Punchayet shall not thereby absolutely cease and determine, but may be resumed at any time, only not so as to invalidate any act done by the Magistrate under this Section.

Residents only bound to act on a Punchayet.

XXVI. No person shall be bound to act on a Punchayet unless he shall reside or carry on business within the limits of the district for which the Punchayet is to be appointed.

Duration of Punchayet and limitation of service thereon.

XXVII. Every Punchayet shall be appointed for the period of one year, and no person shall be compelled to serve on a Punchayet for more than one year at a time, or within less than three years after the expiry of previous service; but nothing in this Section shall prevent any person from being appointed to serve on a Punchayet at any time whatsoever with his own consent.

Member of Punchayet removable only on application of rate-payers.

XXVIII. If a majority of the persons assessed or rated in any district for which a Punchayet shall be appointed, not being in arrear, make application in writing to the Magistrate for the removal of any member of the Punchayet appointed for such district, the Magistrate, if he think it expedient, may remove such member from the Punchayet.

Vacancies in Punchayet how to be supplied.

XXIX. If any vacancy shall occur among the members of a Punchayet, or if any member appointed shall refuse ordecline or be unable to act, the Magistrate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rule already laid down as to the original appointment of members; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sunnud under Section XIV. of this Act.

Punchayet to report misconduct of Chowkeydars—or death or absence.

XXX. The Punchayet shall give notice to the Magistrate of any neglect or misconduct on the part of any Chowkeydar within the district for which they are appointed, which shall come to their knowledge; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any Chowkeydar or from any other cause.

Appointment and duty of Sudder Punchayet.

XXXI. In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a Sudder Punchayet consisting of not less than five members, who may be selected either from the members of the local Punchayets or from any other residents of the city or town. It shall be the duty of the Sudder Punchayet to assist the Magistrate, when required so to do, in carrying out generally the objects of this Act, and particularly in revising the assessment or rate made by the District Punchayet and enquiring into and reporting on appeals preferred against the same.

XXXII. Repealed by Act VI. of 1867 of the Bengal Council.

XXXIII. Repealed by Act VI. of 1867 of the Bengal Council.

Appointment of Tax Collectors and other establishment.

XXXIV. Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint one or more Tax Collectors or Darogahs, and such other servants as may be necessary for preparing, or assisting the Punchayet in preparing the assessment or rate, for copying the same, for collecting the tax, keeping the accounts snd records,,and otherwise carrying out the purposes of this Act. The Magistrate shall take from every Tax Collector or Darogah such security for the due disposal of the sums collected by him as may be thought necessary.

XXXV. Repealed by Act VI. of 1867 of the Bengal Council.

Surplus funds may be devoted to Conservancy purposes.

XXXVI. After paying the wages of the Chowkedars, and defraying the charges specified in the three last preceding Sections of this Act, the Magistrate may, with the sanction of the Commissioner of Circuit, appropriate any sum which may be available, to the purpose of cleansing the city, town, or place, or of lighting or otherwise improving the same.

Tax-Darogah to prepare assessment lists.

XXXVII. The Tax-Darogah shall prepare, from the list hereinbefore mentioned, a Register, which shall be attested by the Magistrate or his Deputy or Assistant, and shall contain the names of all persons assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed, and the amount payable monthly by each person.

To collect assessment.

XXXVIII. On the tenth of each calendar month, or so soon after as possible, the Tax-Darogah shall proceed in person or through some one of his office establishment, to collect the amount due for the current month from each person subject to the tax; and for all sums so collected, the Darogah shall grant a receipt. Provided that, with the sanction of the Commissioner of Circuit previously obtained, the collection may be made quarterly instead of monthly; and in such case the amount due for each quarter shall be collected in the last month of that quarter.

To remit collections to the Magistrate.

XXXIX. The Tax-Darogah shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some officer of his establishment authorized on that behalf, shall give the Darogah a receipt for every sum of money so remitted. The Magistrate shall also cause all such sums of money to be credited to a separate Fund, to be called the Chowkeydaree Fund of the city, town, or place in or on account of which they are collected.

To prepare summons, etc.

XL. The Tax-Darogah shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall keep a regular account of all distresses levied and sales made by him for the realization of arrears.

To report defaulters to Magistrate.

XLI. On the 20th of each calendar month, or as soon after as possible, the Tax-Darogah shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect to which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each.

Summons of defaulters.

XLII. On receipt of the aforesaid list, the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the Cutcherry of the Magistrate within a reasonable time to be specified in the summons, to show cause for his refusal.

Assessment to be levied from defaulters by distress and sale.

XLIII. If any defaulter fail to appear in answer to the summons, or having appeared, fail to satisfy the Magistrate that no arrear is due from him, the Magistrate may issue a warrant to the Tax-Darogah, authorizing him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises in respect of which the arrear is due; and the Magistrate's order as contained in the warrant shall be final.

Sale how to be conducted. Proceeds how to be applied. Returns of sale. Costs.

XLIV. The Tax-Darogah shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale, and the time and place thereof, by beat of drum in the district in which the property is situated. If the arrear be not paid with costs, or the warrant be not in the meantime discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible; and the proceeds shall be applied in discharge of the arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure. The Tax-Darogah shall make a return of all such sales to the Magistrate in the form specified in Appendix D., and the costs upon every such proceeding shall be such as are mentioned and set forth in Appendix E. annexed to this Act.

Penalty for Tax-Darogah etc., purchasing at such sales.

XLV. Any Tax-Darogah or other servant appointed under this Act, any Chowkeydar or Officer of Police, who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty Rupees; and the property shall be confiscated.

XLVI. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue his warrant to the Nazir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate, or for the distress and sale of any personal property belonging to the defaulter and within the jurisdiction of any other Magistrate whatsoever; such other Magistrate shall back the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant.

Sale of property beyond limits of town, etc.

XLVII. All goods and chattels, except tools or implements of trade, which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear. If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same. Provided that no distress shall be made for any arrears due under this Act, after the expiration of six calendar months from the time when such arrears become due.

All goods found on premises liable to sale. But owner of goods to be indemnified by the defaulter.

XLVIII. Every person who shall wilfully obstruct or molest any Tax-Darogah or any of his establishment in the performance of their duties under this Act, or shall fraudulently conceal, remove, or dispose of any of his property for the purpose of avoiding a distress under the provisions of this Act, or shall knowingly assist any other person in so doing, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty Rupees.

Penalty for obstructing Tax-Darogah in execution of duty.

XLIX. The Magistrates shall receive and try all complaints preferred on oath or solemn affirmation against any Tax-Darogah, or other person appointed under this Act, for extortion, malversation, or other misconduct in the discharge of his duty. On proof of any such offence, the Tax-Darogah or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without labor, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or in default and until such delivery or refund be made, shall be liable to further imprisonment, with hard labor, for not more than six months. But nothing in this Section shall be taken to prevent the Magistrate from committing any Tax-Darogah or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Magistrates to try complaints against Tax-Darogah of extortion, etc. Penalty for extortion, etc. Proviso.

L to LVI. Repealed by Act VI. of 1867 of the Bengal Council.

LVII. All fines levied under this Act shall be credited to the Chowkeydaree Fund, and held available for the purposes of this Act.

Fines how to be disposed of.

LVIII. Assistants to Magistrates vested with special powers, and Deputy Magistrates vested with special powers, when posted at stations other than the sudder station of the Magistrate, and empowered under Act X. of 1854 to try cases without reference from the Magistrate, may exercise all the powers hereby vested in a Magistrate; and any Assistant or Deputy Magistrate vested with special powers may perform any of the duties hereby assigned to a Magistrate when referred to him by the Magistrate to whom he is subordinate.

Jurisdiction.

LIX. All the proceedings of a Magistrate under this Act, except as otherwise specially provided, shall be subject to the control of the Commissioner of Circuit; and all the proceedings of the Commissioner of Circuit shall be subject to the control of the Local Government.

Proceedings of Magistrate and Commissioner of Circuit respectively subject to control.

LX. Nothing contained in this Act shall extend to the Town of Calcutta.

Act not to apply to Town of Calcutta.

LXI. Wherever in this Act, or in any appendix thereto, there is nothing in the context requiring a different interpretation—

Interpretation of Act.

The word "Magistrate" shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate.

The words "House" shall include any shop or ware-house.

The words "Bazaar" shall mean any place of trade where there is a collection of shops or ware-houses.

The word "District" shall mean a city, town, bazaar, or union, or any division thereof.

The expression "Police Darogah" shall include any Tuhseeldar or Naib Tuhseeldar entrusted with Police jurisdiction.

APPENDIX A.

To

[*Here insert the names, places of abode, business or other description of the Punchayet.*]

I do hereby require you, the Punchayet appointed under Act XX. of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*), from the date hereof, to make out and forward to me, the undersigned Magistrate of the Zillah of
a fair and equitable assessment upon the several occupiers of houses, shops, and buildings, in the (*here describe the city, town, place, or division,*) for the purpose of raising the sum of Rupees required for the maintenance of Chowkeydars for the year commencing on and other expenses authorized by Act XX. of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances and the property to be protected of each person. But the amount assessed in respect of any one house shall not exceed Rupees (*here insert the pay of a Chowkeydars of the lowest grade*) and the aggregate amount assessed shall not exceed the average rate of 2 annas per mensem for each house, shop, or building in the district.

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied, by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall be deemed the occupier of such house, and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade, or business or other description of the person assessed, the annual assessment, and the quota payable monthly; and may be in the following form, or to the like effect :—

Property occupied.	Name of occupier.	Profession or business or other description.	Amount of monthly payment.

APPENDIX B.

To

[*Here insert names, places of abode, business or other description of the Punchayet.*]

I do hereby require you, the Punchayet appointed under Act XX. of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*), from the date hereof, to make out and forward to me, the undersigned Magistrate of the Zillah of , a fair and equal rate upon the several occupiers of houses, shops, and buildings, and of grounds occupied for the purpose of trade or business, in the (*here describe the city, town place, or division*), for the purpose of raising the sum of Rupees required for the maintenance of Chowkeydars for the year commencing on and other expenses authorized by Act XX. of 1856. You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied.

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property. The rate shall be an equal per centage, not exceeding 5 per cent. of such annual value.

Any person occupying ground for the purpose of trade, is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle, is not to be rated in respect thereof.

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, shall exempt him from the same; but the property occupied, ' together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall be deemed the occupier of such house, and shall be rated accordingly.

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade, or business or other description of the person rated, the annual rateable value of the property, the annual rate, and the quota payable monthly; and may be in the following form or to the like effect :—

Property occupied.	Name of occupier.	Profession or business or other description.	Annual value of property.	Annual rate.	Amount of monthly payment.

APPENDIX C.

An assessment *(or rate, as the case may be,)* made for *(here describe the city town, village or other place or division for which the rate is made)* upon the several occupiers of houses and other property in the said district, pursuant to Act XX. of 1866, for the purpose of maintaining Chowkeydars for such district.

Property occupied.	Names of occupiers.	Profession or business.	Amount of monthly *(or quarterly)* assessment *(or rate.)*

Whereas the above assessment *(or rate, as the case may be,)* has been duly made pursuant to Act XX. of 1856, and has been revised and settled by me, the

undersigned Magistrate of , the several persons whose names are included in the said assessment *(or rate)* are hereby required to pay the monthly *(or quarterly)* contributions set opposite to their names with regularity to the Tax-Darogah or other person appointed by the Magistrate to receive the same, the first payment on the 10th day of the month next succeeding the date of this Notification, and every subsequent payment on or before the 10th day of each succeeding month *(if the tax is to be collected quarterly, the months in which the payment is to be made must be specified)*, or in default thereof, any arrear that may be due will be realized by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed *(or rated)* and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this day of ———

Magistrate of

APPENDIX D.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
District.	Names of defaulters.	Amount of defalcation.	Amount, cost or penalty,	Inventory of property seized under distress.	Date of distress.	Date of sale.	Property sold.	Amount realized on each article.	Purchaser's name.	Balance.

APPENDIX E.

Table of fees payable in Distraints under this Act.

Sum distrained for.	Fee.	
	Rs.	As.
Uunder 1 Rupee	0	4
1 and under 3 Rupees	0	8
3 „ 5 „	1	0
5 „ 10 „	1	8
10 „ 15 „	2	0
15 „ 20 „	2	8
20 „ 25 „	3	0
25 „ 30 „	3	8
30 „ 35 „	4	0
35 „ 40 „	4	8
40 „ 45 „	5	0
45 „ 50 „	5	8
50 „ 60 „	6	0
60 „ 80 „	7	8
80 „ 100 „	9	0
Above 100	10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case 3 annas must be paid daily for each man.

ACT No. XXI. OF 1856.*

1. Regulations and Acts repealed.
2. Collectors of Land to have charge of Abkaree Revenue.
3. Government may appoint Commissioners of Abkaree.
4. Collectors may appoint Abkaree Officers. Tuhseeldars may be Abkaree Darogahs.
5. English distilleries not to be constructed or worked without license.
6. Board of Revenue to prescribe rules for regulating English distilleries.
7. Rate of duty to be levied on spirits.
8. Drawback on exportation.
10. Rules to be observed in the exportation of spirits.
11. Duty to be recovered on any deficiency in spirits under bond.
12. Spirits intended for exportation may be removed for local consumption.
13. Recovery of sums due under bond.
14. Spirits how to be shipped. Spirits shipped for exportation not to be re-landed.
15. No drawback on spirits exported to certain ports or shipped as stores.
16. Rum shrub, &c., how to be charged with duty;—may be exported under the same rules as spirits.
17. Distilleries within twenty miles of Calcutta to be under the Collector of Calcutta.
18. Penalty for constructing or working a distillery, or collecting materials without license.
19. Penalty for non-observance of rules prescribed by Board of Revenue.
20. Penalty for removing spirituous liquors without payment of duty.
21. Penalty for irregular re-land of spirituous liquors.
22. Spirits from foreign territory subject to duty.
23. Construction or working of breweries and manufacture of malt liquor, without license, prohibited.
24. Penalty.
25. Spirituous and fermented liquors not to be sold without license.
26. Fee for wholesale license.
27. Fee for retail license. What to be held a retail sale.
28. Country spirits, liquors, and drugs not to be sold without license.
29. Taree to be held to be a fermented liquor.
30. Proviso.
31. Collectors may establish distilleries for country spirits.
32. Board may prescribe rules for distilleries.
33. And regulate the mode of supplying taree and intoxicating drugs to the licensed vendors thereof.
34. Supply of Opium to licensed vendors. Proviso.
35. Sale of more than specified quantities of country spirits, &c., prohibited.
36. Duty on the retail sale of country spirits, &c.
37. Licensed retail vendors of country spirits to furnish security.
38. Duration and renewal of license.
39. Board to regulate form of license.
40. License may be recalled in certain cases.
41. Surrender of license.
42. Recovery of arrears of tax or duty.
43. Penalty for refusing to produce license on demand of Abkaree Officer, or for breach of license.
44. Penalty for sale in contravention of license. Proviso.
45. Penalty for permitting drunkenness. &c., in shop.
46. Penalty for conveying country spirits from distillery without pass, &c.
47. Penalty for contravention of rules prescribed by the Board of Revenue.
48. Penalty for illicit manufacture or sale of country spirits, &c. Proviso.
49. Penalty for illegal possession of country spirits, &c. Proviso.
50. Provisions of the two last preceding Sections not to apply to the sale and possession of taree when supplied to sugar manufactories, nor to the sale and possession of ganjah and bhang by cultivators. Cultivators of ganjah or bhang to sell only to licensed persons.
51. Penalty for having in possession a greater quantity of opium than five tolahs weight.
52. Exception in favor of.
53. Penalties for sale of adulterated opium, &c., by licensed vendors.

* Act XXII, 1560 is to be read with this Act also Acts; X and XXVIII 1864.

54. Penalty for conniving at the illicit manufacture or sale of spirits, &c.
55. Power of Abkaree officers to inspect shops.
56. And to arrest persons carrying spirits, &c., liable to confiscation.
57. And to arrest unlicensed distillers, &c.
58. Power of Abkaree officers to search on information of illicit manufacture or possession.
59. Officers of the Police, Customs, and Revenue Departments may be vested with same powers as Abkaree Officers.
60. Abkaree officer to report every arrest, seizure, or search to his official superior, and to take the person arrested to the Magistrate for trial, &c.
61. Collector may issue warrant of arrest in certain cases.
62. Collector may issue search-warrant.
63. Procedure after arrest or seizure.
64. Penalty for obstructing Abkaree Officers.
65. Police Officers to assist Abkaree Officers. Penalty.
66. Penalty for maliciously giving false information.
67. Penalty for vexatious search or seizure.
68. Penalty on Abkaree Officers for delay in reporting arrest, &c., or in carrying person arrested to Magistrate or Collector.
69. Penalty for conniving at escape of persons arrested, &c.
70. Penalty for asking or taking gratuities.
71. Adjudication of penalties and seizures.
72. Procedure in cases other than those of persons sent in custody by a Collector or Abkaree Officer.
73. Punishment on second or subsequent conviction.
74. Confinement in Civil Jail.
75. Disposal of confiscated goods.
76. Disposal of fines, &c., as rewards. Rewards where no fine is realised.
77. Fines undisposed of to belong to Government. Special rewards to informers.
78. Appeals from orders and sentences passed under this Act.
79. Collector, with the sanction of the Board of Revenue, may farm out the duties leviable on the sale of spirits, &c., except opium.
80. Board of Revenue to regulate invitation and acceptance of tenders for such farm.
81. The farmer to make his own arrangements with the manufacturers and vendors within the limits of his farm.
82. List of licenses granted by farmer to be filed. Restrictions with respect to grant of licenses.
83. Lease may be cancelled. Compensation to farmers in certain cases.
84. Recovery of arrears of tax or duty from or by farmers.
85. Rules respecting the manufacture and sale of spirits, &c., in Military Cantonments.
86. Mode of making arrest or search within Military Cantonments.
87. Powers vested in officers of the Opium Department.
88. Provisions not applicable to the Town of Calcutta. Saving of provisions of Act XI. 1849.
89. Commencement of Act.
90. Construction.

An Act to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.

WHEREAS it is expedient that the laws relating to the manufacture of spirits and the sale of spirituous and fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom, should be consolidated and amended: It is enacted as follows:

Regulations and Acts repealed.

I. Regulation II. 1802; Regulation X. 1813; Regulation XVII. 1814; Section XLI. and the following Sections of Regulation XIII. 1816; Regulation XI. 1818; Regulation VII. 1824, except the first five Clauses of Section XVIII. and Sections XXIII. and XXIV., and Regulation VIII. 1826, of the Bengal Code; and Act XXV. of 1840, Act IX. of 1841, and Act XXIII. of 1848, are hereby repealed, except so far as they repeal the whole or part of any other Regulation or Act, and except as to acts done, offences committed, and liabilities incurred, before the passing of this Act.

Collectors of Land Revenue to have charge of the Abkaree Revenue.

II. The collection of the revenue arising from the manufacture of spirits, and the sale of spirits and spirituous and fermented liquors and intoxicating drugs shall be ordinarily under the charge of the Collectors of Land Revenue, who shall perform the duties connected therewith under the control and direction of the Commissioners of Revenue, and of the Board of Revenue But the Government

may appoint any other person to be Superintendent of Abkaree Revenue in any district or place; and any person so appointed shall exercise, in such district or place, all the powers and authority vested by this Act or by Act XI. of 1849 in the Collector of Land Revenue; and such powers and authority shall cease to be exercised in such district or place by the Collector of Land Revenue during the continuance of such appointment.

Government may appoint Commissioners of Abkaree.

III. The Government may also appoint a Commissioner or Commissioners for the control and direction of the officers having charge of the Abkaree Revenue in any district or districts; and when such appointment is made, the Commissioner of Abkaree shall exercise within such district of districts the powers and authority vested by this Act or by Act III. of 1856 in Commissioners of Revenue; and the Revenue Commissioners shall cease to exercise such powers and authority in the said district or districts during the continuance of such appointment.

Collectors may appoint Abkaree officers. Tuhseeldars may be Abkaree Darogahs.

IV. Collectors may appoint daroghas, jemadars, peons, surveyors, gaugers, and other officers, for the collection of the Abkaree revenue and for the prevention of smuggling, and the officers so appointed shall, in addition to their ordinary designations, be styled Abkaree Officers. In districts where there are Tuhseeldars and other local officers for the collection of the Land Revenue, the office of Abkaree Darogah may be united with that of Tuhseeldar, Naib Tuhseeldar, or Peshkar; and in such cases, the Tuhseeldar, Naib-Tuhseeldar, or Peshkar, and the officers subordinate to him, shall be held and deemed to be Abkaree Officers within the meaning of this Act.

Constructed or worked without license.

V. It shall not be lawful for any person to construct or work a distillery after the manner in which distilleries are constructed and worked in England, without a license under the signature of the Collector of the district in which such distillery is situated, or in case the distillery is within twenty miles of Calcutta, or such other distance less than twenty miles, as may from time to time be prescribed by the Lieutenant-Governor of Bengal, under the signature of the Collector of Calcutta.

Board of Revenue to prescribe rules for regulating English distilleries.

VI. The Board of Revenue, with the sanction of Government, may prescribe such rules relative to the granting of licenses under the preceding Section, to the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work, to the size and description of the stills, to the passing and storing of the spirits, to the inspection and examination of the distillery and warehouses and of the spirits manufactured and stored therein, and to the furnishing of statements and lists of such spirits, and of the stills, coppers, casks, and other utensils used in the distillery, as may from time to time be judged expedient.

Rate of duty to be levied on spirits.

VII. A duty shall be levied on spirits manufactured at distilleries worked according to the English method, at the rate of one Rupee the imperial gallon of the strength of London-proof, to be augmented or reduced in proportion to the strength of the spirit. No spirit shall be removed from any such distillery, or the ware-houses connected therewith, upon which the aforesaid duty has not been paid or for the duty chargeable on which a bond has not been executed as hereinafter provided; and for all spirits removed upon payment of duty or under bond, passes shall be issued by the Collector, which shall specify the quantity and strength of the spirit, the place of its destination, the person to whom it is consigned, and whether the duty has been paid or secured by bond.*

Drawback on exportation.

VIII. A drawback of the duty paid as above on spirits manufactured after the English method, and exported by sea in the manner hereinafter prescribed, to any port not subject to the Government of the East India Company, or to any port in the Settlement of Prince of Wales' Island, Singapore, and Malacca, or to the port of Aden, shall be allowed by the Collector of Customs at the port of exportation. Provided always, that the exportation shall be made within one year from the date of the payment of duty under this Act, and that the spirits, when brought to the Custom House, shall be accompanied by the pass in which such payment is certified

IX. Repealed by Act XXIII. of 1860.

Rules to be observed in the exportation of spirits.

X. Spirits brought to the Custom House for exportation by sea shall, previous to shipment, be gauged and proved by an officer of the Customs. The amount of drawback to be allowed upon spirits for which duty has been paid shall be regulated according to the strength and quantity of the said spirits as ascertained by such proof and gauge; and the quantity of spirits, for which credit is to be given in the settlement of any bond, shall be determined in the same manner. Spirits under bond shall be taken from the distillery direct to the Custom House, under passes to be granted for that purpose by the Collector.

Duty to be recovered on any deficiency in spirits under bond.

XI. When spirits are passed from a distillery under bond, duty shall be recoverable upon any difference between the quantity of spirits so passed from the distill--

* *See* Act XXIII. 1860.

ery and the quantity ascertained by gauge and proof at the Custom House, less such allowance for ullage and leakage as may be prescribed by the Board of Revenue.

Spirits intended for exportation may be removed for local consumption.

XII. Spirits brought to the Custom House under bond for exportation may nevertheless be removed for local consumption under passes to be granted for that purpose by the Collector of Revenue, upon payment of the prescribed duty on the quantity so removed; and credit for such payment shall be given on the settlement of the bond.

Recovery of sums due under bond.

XIII. Any sum which may remain due to Government upon the settlement of a bond executed according to the provisions of this Act, may be recovered by any process which is or may be in force for the recovery of arrears of revenue due from farmers of land or their sureties, or by suit on the bond in any Court of competent jurisdiction.

Spirits how to be shipped. Shipped for exportation not to be relanded.

XIV. No drawback shall be allowed on any duty-paid spirits, nor shall the duty due on any spirits under bond be remitted, unless the spirits shall be shipped from the Custom House, and upon a vessel to which a Custom House officer has been appointed to superintend the receipt of export cargo. Spirits shipped for exportation shall not be re-landed without a special pass from the Collector of Revenue in addition to the usual order of the Collector of Customs.

No drawback on spirits exported to certain ports or shipped as stores.

XV. No drawback shall be allowed on spirits exported to any port subject to the Government of the East India Company, other than the ports mentioned in Section VIII. of this Act, or on spirits shipped as stores; nor shall spirits under bond be so exported or shipped without payment of the duty prescribed by this Act.*

Rum shrub may be exported under the same rules as spirits.

XVI. Rum shrub, cordials, and other liquors, prepared in a licensed distillery under the supervision of the surveyor or officer in charge of the distillery, shall be charged with duty according to the quantity of spirit used in the preparation; and all the provisions contained in this Act respecting spirits manufactured after the English method, except such as relate to gauge and proof, shall be applicable to such liquors. When any such liquors are removed for exportation without payment of duty, the bonds to be executed by the persons removing them shall be in the annexed form.

Distilleries within 20 miles of Calcutta to be under Collector of Calcutta.

XVII. All licensed distilleries, constructed and worked after the English method, and situated within twenty miles of Calcutta, or such other distance less than twenty miles as may from time to time be prescribed by the Lieutenant-Governor of Bengal, shall be under the superintendence and control of the Collector of Calcutta, who shall exercise, with respect to such distilleries and to the spirits manufactured therein, all the powers vested in Collectors by this Act; and the Collectors of districts in which any such distilleries are situated shall have no jurisdiction with respect to such distilleries.

Constructing or working a distillery without license.

XVIII. Every person who shall construct or work a distillery after the English method, without a license from the Collector, shall forfeit for every such offence a sum not exceeding one thousand Rupees; and all spirits manufactured at any such distillery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

Penalty for non-observance of rules prescribed by Board of Revenue.

XIX. Every proprietor or manager of a licensed distillery constructed and worked after the English method, who shall omit to furnish any notice or any statement or list required by the rules prescribed by the Board of Revenue under Section VI of this Act, or shall wilfully do any thing in contravention of the said rules, shall forfeit for every such offence a sum not exceeding two hundred Rupees; and if any such offence be committed a second time with respect to the same distillery, the license granted for the working of such distillery may be withdrawn by the Collector.

Penalty for removing liquors without payment of duty.

XX. Every person who shall remove, or attempt to remove, from any licensed distillery constructed and worked after the English method, any spirituous liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any spirituous liquors for which a pass has not been issued by the Collector, shall forfeit for every such offence a sum not exceeding one thousand Rupees; and the liquors, together with the vessels containing the same and the animals and conneyance used in carrying them, shall be liable to confiscation. If it shall appear to the Collector that the offence was committed with the consent or knowledge of the proprietor or manager, the license granted for the construction and working of the distillery from which such liquors have been removed or attempted to be removed may be withdrawn.

Penalty for irregular re-land of spirituous liquors.

XXI. Every person who shall re-land, or attempt to re-land, any spirituous liquors shipped for exportation, without a special pass from the Collector of Revenue at the place of exportation, shall forfeit for every such offence a sum not exceeding five hundred Rupees; and the liquors, together with the casks and

* *See* Act XXIII. 1860.

vessels containing the same, and the carts, boats, and animals employed in carrying them, shall be liable to confiscation.

Spirits from foreign territory subject to duty.

XXII. Spirituous liquors manufactured at the foreign settlement of Chandernagore, or at any other place in India beyond the limits of the Company's territories, shall, on passing the limits of the Company's territories subject to this Act, be charged with the duty prescribed for proof spirits in Section VII. of this Act: and any person who may be found in possession of any such liquors, without a pass from the Collector certifying the payment of such duty, shall forfeit for every such offence a sum not exceeding two hundred Rupees; and the liquors, together with the vessel containing the same and the animals and conveyances used in carrying them, shall be liable to confiscation.

Construction or working of breweries etc., without license, prohibited.

XXIII. It shall not be lawful for any person to construct or work a brewery, or to manufacture any description of malt liquor, without a license from the Collector of the district. The Board of Revenue, with the sanction of Government, may prescribe such rules relative to the granting of licenses for constructing and working breweries as may from time to time be judged expedient.

Penalty for brewing malt liquor.

XXIV. Every person who shall construct or work a brewery, or manufacture malt liquor, without a license, shall forfeit for every such offence a sum not exceeding five hundred Rupees.

Spirituous and fermented liquors not to be sold without license.

XXV. Spirituous liquors passed from distilleries worked according the English method, fermented liquors manufactured at a licensed brewery, and spirituous and fermented liquors imported either by land or by sea, shall not be sold except under license from the Collector.

Fee for wholesale license.

XXVI. Persons taking out licenses for the wholesale vend of spirituous and fermented liquors as aforesaid shall pay, for every such license, the sum of sixteen Rupees. The license shall be current only during the official year, and in the district in which it is granted. But travelling merchants may obtain a general license, authorizing them to sell by wholesale, in any district which they may visit in the course of their travel, without taking out a fresh license for that district, under such rules and restrictions as may be from time to time prescribed by the Board of Revenue.

Fee for retail license. What to be held a retail sale.

XXVII. Persons taking out licenses for the retail sale of spirituous and fermented liquors as aforesaid shall pay, for every such license, such fee or tax as may be fixed by the Board of Revenue; and such fee or tax shall be payable at such periods as the said Board may direct. Provided that such fee or tax shall be at such rate for each license as shall not exceed the total sum of one hundred Rupees for the whole year. Any sale of spirituous or fermented liquors as aforesaid, in less quantity than two imperial gallons or one dozen of quart bottles, shall be held to be a retail sale.

Country spirits, liquors, and drugs not to be sold without license.

XXVIII. It shall not be lawful for any person to manufacture spirits after the native process, nor to sell such spirits, or taree, or puchwye, or ganjah, bhang, churrus, opium, or any preparation or admixture of the same, except under license from the Collector.

Taree to be held to be a fermented liquor.

XXIX. All the provisions relating to the sale or possession of fermented liquors contained in the following Sections of this Act, shall be held applicable to the sale or possession of taree, whether in a fermented state or otherwise; and all taree, both fresh and fermented, shall be held to be included in the expression "fermented liquors" as used in the following Sections of this Act.

Proviso.

XXX. Provided, however, that it shall be lawful for Government, on the report of the Board of Revenue, to pass an order suspending the operation of all the provisions relating to taree, contained in this Act, with respect to any district in which the consumption of taree in a fermented state is inconsiderable; and after the passing of any such order, it shall be lawful for taree to be possessed and sold without license in any such district, notwithstanding any thing contained in this Act.

Collectors may establish distilleries for country spirits.

XXXI. The Collector, with the sanction of the Board of Revenue, may establish, at any place within his jurisdiction, a distillery in which spirits may be manufactured after the native process: and may from time to time fix limits within which no country spirits, except such as are manufactured at the said distillery, shall be introduced or sold without a special pass from the Collector, and within which no stills shall be constructed or worked, or spirits manufactured, except at the said distillery. He may also, with the like sanction, discontinue any distillery so established, whenever its discontinuance may appear to be expedient.

Board may prescribe rules for distilleries.

XXXII. The Board of Revenue may prescribe such rules relative to the management of distilleries established under the last preceding Section, to the conditions on which spirits may be manufactured in the said distilleries, and to the passes to be issued for the conveyance of such spirits to the shops of the vendors, as may from time to time be judged expedient.

And regulate the supplying of Taree and intoxicating drugs to licensed vendors.

XXXIII. The Board of Revenue may regulate the mode in which taree shall be supplied to licensed venders of the same; and may frame rules for the grant of licenses or passes to persons purchasing, transporting, or storing ganjah, bhang, or churrus for the supply of the licensed vendors of those drugs. They may also place the cultivation, preparation, and store of the intoxicating drugs above-mentioned under such supervision as may be deemed necessary to secure the duty leviable thereon.

Supply of Opium to licensed vendors. Proviso.

XXXIV. Opium shall be supplied to licened vendors from the Government stores in such manner and at such prices at the Board of Revenue may direct: and no other description of opium shall be sold by such vendors. Provided that the Government may, by an order of Government, exempt any district or districts from the operation of this Section.

Sale of more than specified quantities of country spirits, etc., prohibited.

XXXV. Except for the supply of licensed vendors, country spirits, taree, and puchwye, and intoxicating drugs, shall not be sold in larger quantities than are here-under specified,—namely, country spirits, one seer; taree or puchwye, four seers; ganjha or bhang, or any preparation or admixture of the same, one quarter of a seer; churrus or opium, or any preparation or admixture of the same, five tolahs weight; and the sale of any such quantity as is herein allowed shall be deemed to be a retail sale within the meaning of this Act.

Duty on the retail sale of country spirits etc.

XXXVI. Whenever a license for the retail sale of country spirits, taree, or puchwye, or intoxicating drugs, shall be granted under this Act, the Collector shall be authorized to demand, in consideration of the privilege granted, such tax or duty, or a tax or duty adjusted on such principles, as may from time to time be fixed with the sanction of the Board of Revenue; and such tax or duty shall be specified in the license, and shall be payable at such periods as the said Board may direct. The Collector may grant special licenses for the sale of unfermented taree only, at those periods of the year when the fresh juice is in request: fees may be demanded for such special licenses at a rate not exceeding one Rupee for each license; and the vendors shall not be subject to any other tax or duty in respect of such sale.

Licensed retail vendors of country spirits to furnish security.

XXXVII. Every person taking out a license for the manufacture of country spirits, or for the retail sale of spirituous or fermented liquors or intoxicating drugs, shall execute a counterpart engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement or make such deposit in lieu of security, as the Collector may require.

Duration and renewal of license.

XXXVIII. Unless otherwise specially authorized by the Board of Revenue licenses for retail sale shall be granted for the term of one year, and if continued to the holders thereof shall be formally renewed from year to year. But it shall, be incumbent on every person holding a license, who may intend not to renew it, to give notice of his intention to the Collector fifteen days previously to the expiration of the year; and if such notice be not given, and the license be not recalled by the Collector, the license held and engagement entered into by every such person shall remain in force, as if the said license and engagement had been formally renewed.

Board to regulate form of license.

XXXIX. The Board of Revenue shall have authority to regulate the form and conditions of all licenses granted under this Act.

License may be recalled in certain cases.

XL. The Collector may recall or cancel any license granted under this Act if the tax or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a breach of the peace or any other criminal offence. If the Collector desire to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum equal to the tax for fifteen days, or if notice be not given, shall, make such futher compensation for default of notice as the Commissioner or Board of Revenue shall direct.

Surrender of license.

XLI. Any licensed retail vendor may surrender his license on giving fifteen days' previous notice to the Collector, and paying a sum equal to the tax for fifteen days over and above the sum payable under the license.

Recovery of arrears of Tax or duty.

XLI. The Collector may recover any arrear of tax or duty due on account of any license granted under this Act, by distress and sale of the goods and chattels of the person from whom the same is due or of his surety, or by any other process which is or may be in force for the recovery of arrears of revenue due from farmers of land or their sureties.

Penalty for refusing to produce license or for breach of license.

XLIII. Every person licensed to manufacture country spirits, or to sell spirituous or fermented liquors or intoxicating drugs, who shall not produce his license on the demand of any Abkaree officer, or who shall commit any act in breach of any of the conditions of his license not otherwise provided for in this Act, shall forfeit for every such offence a sum not exceeding fifty Rupees.

XLIV. Every licensed retail vendor, who shall sell any larger quantity of spirituous or fermented liquors or intoxicating drugs than is allowed to be sold by retail by the provisions of this Act, and every licensed wholesale vendor who shall make a retail sale, shall forfeit for every such offence a sum not exceeding two hundred Rupees. Provided always, that nothing in this Section shall be held to prohibit the grant to the same person of both wholesale and retail licences, subject to the provisions of this Act.

Penalty for sale in contravention of license.

Proviso.

XLV. Every person licensed to sell spirituous or fermented liquors or intoxicating drugs, who shall permit drunkenness, riot, or gaming in his shop, or shall permit persons of notoriously bad character to meet or remain therein, or shall receive any wearing apparel or other effects in barter for liquors or drugs, shall forfeit for every such offence a sum not exceeding 200 Rupees.*

Penalty for permitting drunkenness, etc., in shop.

XLVI. Every person who shall convey or attempt to convey any country spirits from a distillery established under Section XXXI. of this Act without a pass, or exceeding the quantity for which a pass shall have been granted, or shall introduce or attempt to introduce any country spirits manufactured at another place into the limits fixed for the consumption of spirits manufactured at such distillery, without a special pass from the Collector, shall forfeit for every such offence a sum not exceeding five hundred Rupees.

Penalty for conveying country spirits from distillery without pass, etc.

XLVII. Every person who shall wilfully contravene any rule prescribed by the Board of Revenue for the management of a distillery established as aforesaid, otherwise than as provided for in the last preceding Section, shall forfeit for every such offence a sum not exceeding fifty Rupees.

Penalty for contravention of Board's rules.

XLVIII. Every person other than a licensed manufacturer who shall manufacture any country spirits, and every person other than a licensed vendor, or a person duly authorized to supply licensed vendors, who shall sell any spirituous or fermented liquors or intoxicating drugs, and every person authorized to supply licensed vendors, who shall sell any such liquors or drugs to any person other than a licensed vendor, shall forfeit for every such offence a sum not exceeding five hundred Rupees. Provided always, that nothing in this Section or in Section XXV. shall apply to the sale by auction of any spirituous liquors, wines, or beer purchased by any person for his private use and so disposed of upon such person quitting a station or after his decease.

Penalty for illicit manufacture or sale of country spirits, etc.

Proviso.

XLIX. Every person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, who shall have in his possession any larger quantity of country spirits, or taree, or puchwye, or intoxicating drugs, except opium, than may legally be sold by retail under the provisions of Section XXXV. of this Act, or shall transport by land or by water, or have in his possession, any spirituous liquors made at a distillery worked according to the English method, or any imported spirituous or fermented liquors, in larger quantity than two gallons, without a pass from the Collector or other officer duly empowered in that behalf, shall forfeit for every such offence a sum not exceeding two hundred Rupees; and the liquors and drugs, together with the vessels, packages and coverings in which they are found, and the animals and conveyances used in carrying them, shall be liable to confiscation. Provided always, that nothing in this Section shall extend to any spirituous liquors, wines, or beer, purchased by any person for his private use and not for sale.

Penalty for illegal possession of country spirits, etc.

Proviso.

L. The provisions of the two last preceding Sections, so far as they relate to the sale and possesion of fermented liquors, shall not be held applicable to the sale and possession of taree, the produce of the date tree, when supplied or used for the manufacture of goor or molasses; and the provisions of the said Sections relating to the sale and possession of intoxicating drugs, shall not be held applicable to the sale and possession of ganjah or bhang by the cultivators of the plants which produce those drugs respectively. But such cultivators are prohibited from selling any ganjah or bhang to any one other than a licensed vendor, or a person duly authorized to purchase by pass or license from the Collector; and every such cultivator, who shall act in breach of his prohibition, shall forfeit for every such offence a sum not exceeding five hundred Rupees.

In certain cases, provisions of the two last preceding Section not to apply to the sale and possession of taree or of ganjah and bhang.

LI. Every person, other than a licensed vendor, who shall have in his possession a greater quantity of opium than five tolahs weight, shall forfeit for every such offence a sum not exceeding five hundred Rupees, unless the opium found in the possession of such person shall exceed the weight of thirty-one seers and a quarter, in which case the penalty may be increased at a rate not exceeding sixteen Rupees the seer for all the opium so found in excess of that weight; and the opium, together with the vessels, packages, and converings in which it is found and the animals and conveyances used in carrying it, shall be liable to confiscation.

Penalty for having in possession more opium than five tolahs weight.

* This Section has been extended by See Act XXI. 1857, Section 9.

Exception in favor of.

LII. Provided always, that nothing in the last preceding Section shall extend to the persons and circumstances hereinafter specified, namely :—

Cultivators.

1. Authorized opium cultivators having newly extracted opium in their possession during the usual period between the full growth of the poppy, and the delivery of the produce to the Opium Agent.

Travellers.

2. Travellers and visitants from foreign states or countries having in their possession any quantity of foreign opium not exceeding two seers, the produce of such states and countries, and intended for the private use of such travellers and visitants, or their attendants, and not for sale or traffic.

Horse dealers.

3. Dealers in horses travelling with strings of horses from beyond the South-West frontier of the territory under the Government of the Lieutenant-Governor of the North-Western Provinces, and having in their possession opium, the produce of foreign states or countries, not exceeding in quantity the proportion of ten tolahs weight for each horse.

If opium be found in the possession of any traveller or visitant or any dealer in horses as aforesaid, in excess of the quantities above specified, such excess shall be liable to confiscation, but the persons in whose possession it may be found shall not be subject to any further penalty.

Penalties for sale of adulterated opium, etc., by licensed vendors.

LIII. Every licensed vendor, who shall sell or offer for sale opium adulterated with any foreign substance, not being a preparation or admixture of opium for the sale of which such vendor may have taken out a license, or except in districts exempted from the operation of Section XXXVI. shall sell or have in his possession any opium other than the opium supplied to him from the Government stores, shall forfeit for every such offence a sum not exceeding five hundred Rupees, and the license held by him shall be withdrawn, and the opium, together with the vessels or packages in which it is found, shall be seized, and confiscated.

Penalty for conniving at the illicit manufacture or sale of spirits, etc.

LIV. Every proprietor, farmer, tuhseeldar, gomastah, or other manager of land, who shall authorize or connive at the manufacture of country spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, shall forfeit for every such offence a sum not exceeding five hundred Rupees.

Power of Abkaree officers to inspect shops.

LV. Any Abkaree officer may enter and inspect at any time, by day or by night, the shop or premises in which any licensed manufacturer or retail vendor shall carry on the manufacture of country spirits, or the sale of spirituous or fermented liquors or intoxicating drugs.

And to arrest persons carrying spirits, etc.

LVI. Any Abkaree officer may stop and detain any person carrying any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act; and may seize the liquors or drugs with the vessels, packages, or coverings in which they are contained, and the animals and conveyances used in carrying them; and may also arrest the person in whose possession such liquors or drugs are found.

And to arrest unlicensed distillers, etc.

LVII. Any Abkaree officer above the rank of a jemadar of peons may arrest any person having in his possession an unlicensed still, or any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act, or engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, and may seize such still with the materials for working it, and all such liquors and drugs.

Power of Abkaree officers to search, on information of illicit manufacture or possession.

LVIII. Whenever any Abkaree officer above the rank of a jemadar of peons shall have good reason to believe, from information given by any person, which information shall be taken down in writing, that spirits are unlawfully manufactured, or that any spirituous or fermented liquors, or intoxicating drugs liable to confiscation under this Act, are kept or concealed in any house, boat, or other place, such officer may, between sunrise and sunset, but always in the presence of a darogah or other officer of police not being under the grade of a jemadar, enter into any such house, boat, or place, and in case of resistance may break open any door, and force and remove any other obstacle to such entry; and may seize and carry away all stills and materials used in the manufacture of such spirits, and all such liquors and drugs; and may also arrest the occupier of the house, boat, or place with all other persons concerned in the manufacture of such spirits, or in the keeping and concealing of such liquors or drugs.

Police, Customs, and Revenue officers may be vested with same powers as Abkaree officers.

LIX. The powers of seizure, search, and arrest, given to Abkaree officers by the three last preceding Sections, shall, in regard to the seizure and search for contraband opium and the arrest of persons found in possession thereof, be vested also in the officers of the Police, Customs, and Revenue Departments according to their respective grades. And it shall further be lawful for the Government to invest the officers of those departments, or of any of them, with the like powers with respect to the seizure of, and search for, spirituous and fermented liquors

and intoxicating drugs of every description, and the arrest of persons found in possession of them, and all such officers when so empowered, as well as all Police, Customs, and Revenue officers when acting under the authority conferred by this Section for the suppression of illicit dealings in opium, shall be held and deemed to be Abkaree officers within the meaning of this Act.

Abkaree officer to report arrest, seizure, or search to his official superior, and to take the person arrested to the Magistrate for trial, etc.

LX. Whenever an Abkaree officer shall arrest any person, or seize any still, or any liquors or drugs liable to confiscation under this Act, or enter any house, boat, or place for the purpose of searching for any such illicit articles, he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, or seizure, or search, to his official superior, and unless acting under the warrant of the Collector, shall carry the person arrested, or the illicit article seized, with all convenient despatch, to the Magistrate for trial or adjudication.

Collector may issue warrant of arrest in certain cases.

LXI. The Collector may issue his warrant for the arrest of any person whom he may have reason to believe, either from information in writing, or from the proceedings in any other case, to be engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, or to have in his possession any such liquors or drugs liable to confiscation under this Act.

Collector may issue search warrant.

LXII. The Collector may issue his warrant for the search of any house, boat, or other place, in which, upon any of the grounds mentioned in the last preceding Section, he may have reason to believe that spirits are unlawfully manufactured, or that spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Act, are kept or concealed; and such warrant may be executed by any officer above the rank of a jemadar of peons, in the manner prescribed in Section LVIII. of this Act.

Procedure after arrest or seizure.

LXIII. Whenever any person is arrested, or any articles are seized under the warrant of a Collector, the Collector, after such enquiry as he thinks necessary, shall send the person arrested or the articles seized to the Magistrate, or shall order the immediate discharge of such person or the release of such articles.

Penalty for obstructing Abkaree officers.

LXIV. Every person who shall obstruct or resist any abkaree officer in the due execution of this Act, or any rules prescribed under the authority thereof, shall forfeit for such offence a sum not exceeding five hundred Rupees.

Police officers to assist Abkaree officers.

LXV. All Police officers are required to aid the Abkaree officers in the due execution of this Act, upon notice given or request made by such officers; and any Police officer who, without lawful excuse, shall neglect or refuse to assist as aforesaid, and any Darogah or other officer in charge of a Police station, who, on application made by an Abkaree officer under Section LVIII. of this Act, shall fail to attend a search himself, or to depute a subordinate officer not being below the grade of a jemadar, shall forfeit for such offence a sum not exceeding five hundred Rupees.

Penalty for maliciously giving false information.

LXVI. Every person who shall maliciously give false information against, any person as being engaged in the unlawful manufacture of spirits, or as selling or having in his possession any spirituous or fermented liquors or intoxicating drugs in contravention of this Act, and so procure that such person be arrested, or that any house, boat, or other place be searched, to the injury or annoyance of such person, or any other person whatsoever, shall forfeit for such offence a sum not exceeding five hundred Rupees, which sum or any portion thereof may be paid to the person aggrieved, and shall be further liable to imprisonment for a period not exceeding six months.

Penalty for vexatious search or seizure.

LXVII. Any Abkaree officer, who shall, without reasonable ground of suspicion, search or cause to be searched any house, boat, or other place, or shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for any spirituous liquors or intoxicating drugs liable to confiscation under this Act, or shall vexatiously and unnecessarily arrest any person, or commit any other excess not required for the execution of his duty, shall forfeit for such offence a sum not exceeding five hundred Rupees, which sum, or any portion thereof, may be paid to the person aggrieved.

Penalty for delay in reporting arrest, etc., or in carrying person arrested to Magistrate or Collector.

LXVIII. Any Abkaree officer who shall neglect to report the particulars of an arrest, seizure, or search within twenty-four hours thereafter, or shall delay carrying to the Magistrate or Collector, as the case may be, any person arrested, or any illicit articles seized under this Act, shall forfeit for such offence a sum not exceeding two hundred Rupees.

Penalty for conniving at escape of persons arrested, etc.

LXIX. Any Abkaree officer who shall unlawfully release or connive at the escape of any person arrested under this Act, or connive at the manufacture of spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, or by any licensed person contrary to terms of his license, or act in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the Abkaree Revenue defrauded; and any darogah of Police, or other

officer invested with local jurisdiction, who shall authorize or connive at the establishment of any unlicensed shop for the sale of such liquors or drugs as aforesaid in any place subject to his control, shall forfeit for such offence a sum not exceeding five hundred Rupees.

Penalty for asking or taking gratuities.

LXX. Any Abkaree officer who shalll ask or take any unauthorized gratuity, in consideration of doing or omitting to do any act in his official capacity, shall forfeit for such offence a sum not exceeding five hundred Rupees.

Adjudication of penalties and seizures.

LXXI. All forfeitures and penalties prescribed for offences against the provisions of this Act, and all seizures of goods declared liable to confiscation under this Act, shall be adjudged by the Magistrate on the information of the Collector or any Abkaree Officer. Provided, that no such information shall be necessary in any case of complaint preferred to a Magistrate under any of the seven last preceding Sections or under Section XLV.

Procedure in cases other than those of persons sent in custody by a Collector or Abkaree officer.

LXXII. In all cases in which complaint or information is preferred to a Magistrate of offences committed against this Act, not being cases in which persons are sent in custody by a Collector or Abkaree officer, the Magistrate shall issue a summons requiring the attendance of the person accused. The rules contained in the regulations and Acts in force, for the trial of cases before a Magistrate and for appeal against orders passed by a Magistrate, shall be applicable to trials under this Act. Provided that no complaint or information of an offence against this Act shall be admitted unless it be preferred within the period of six months after the commission of the offence to which the complaint or information refers.

Punishment on second or subsequent conviction.

LXXIII. Whenever any person shall be convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months ; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Confinement in Civil Jail.

LXXIV. Every person who shall be imprisoned under the last preceding Section, or on account of the non-payment of any sum forfeited under this Act, if the offence of which he has been convicted be one with respect to which the information of the Collector or an Abkaree Officer is required by Section LXIX, shall be confined in the Civil Jail.

Disposal of confiscated goods.

LXXV. All goods and chattels adjudged to confiscation, except opium, shall be disposed of by the Collector by public sale. Opium seized and confiscated shall be sent for examination to the Civil Surgeon of the station, and, if declared by him to be fit for use, shall be transmitted to the Government factories, or otherwise disposed of in such manner as the Board of Revenue shall direct. If declared to be unfit for use, it shall be immediately destroyed.

Disposal of fines, etc., as rewards. Rewards, where no fine is realized.

LXXVI. One-half of all fines and forfeitures levied from persons convicted of the unlawful manufacture of spirits, or of the unlawful sale or possession of spirituous or fermented liquors or intoxicating drugs, and one-half of the proceeds from sale of all confiscated articles except opium, and in the case of opium confiscated and declared by the Civil Surgeon to be fit for use, a reward of one rupee eight annas for each seer, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender ; and the other half of such fines and forfeitures and the other half of the proceeds of sale, or in the case of opium as aforesaid, a reward of one Rupee eight annas for each seer shall be given to the informer. If in any case the fine or forfeiture is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred Rupees, as may seem to them fit ; and the said Board may direct by general order what classes of Abkaree officers shall receive rewards, and what classes have no title to share therein.

Fines undisposed of to belong to Government: Special rewards to informers.

LXXVII. All fines and forfeitures levied under this Act, the disposal of which is not specially provided for, shall belong to Government ; but the Board of Revenue may appropriate any portion thereof, not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

Appeals from Collector's orders and sentences.

LXXVIII. All orders passed by a Collector under this Act shall be appealable to the Commissioner in the usual manner, under the laws and regulations in force relative to appeals from the orders of Collectors.

Collector, with the sanction of the Board, may farm out the duties.

LXXIX. It shall be lawful for the Collector, with the sanction of the Board of Revenue, to let in farm, for any period not exceeding five years, the duties leviable on the retail sale of spirituous or fermented liquors, or intoxicating drugs, or any description of such liquors or drugs in any pergunnah or other known division of a district.

Board of Revenue to regulate invitation

LXXX. The Board of Revenue may prescribe rules for the invitation and acceptance of tenders for such farms and for the requisition of security for the

due fulfilment of the engagements entered into by the farmers. The said Board may also regulate the form and conditions of lease; and any breach of those conditions shall render the lease liable to annulment.

and acceptance of tenders for such farm.

LXXXI. When the duties leviable on any of the articles above enumerated are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm; and all the penalties and forfeitures prescribed by this Act, for the unlawful manufacture, sale or possession of any such article, shall be incurred by all persons manufacturing, selling, or possessing the same without license or authority from the farmer.

The farmer to make his own arrangements with the manufacturers and vendors.

LXXXII. Provided always, that every such farmer shall be required to file in the Collector's office a list of all the licenses granted by him in such form as may be prescribed by the Board of Revenue. Provided also, that it shall be lawful for the Collector, with the sanction of the said Board, before entering into engagements for any such farm, to make such reservations or restrictions with respect to the grant of licenses as may be deemed proper and expedient.

List of licenses granted by farmer to be filed. Restrictions before grant of licenses.

LXXXIII. The Collector may, with the sanction of the Board of Revenue, cancel any lease granted under this Act; or, within the period of the lease, impose any new restriction on the farmer. If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions to the lease, or if any reservation or restriction with respect of the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he may sustain thereby as the Board of Revenue shall think just and proper.

Lease may be cancelled. Compensation to farmers in certain cases.

LXXXIV. The provisions of Section XLII. of this Act shall be applicable to any arrear that may be due from any farmer of Abkaree Revenue; and every such farmer shsll be authorized and empowered to use the same means and processes for the recovery of any arrear of tax or duty due to him from any authorized vendor, which may be lawfully used by zemindars and farmers of land for the recovery of arrears of rent due to them from their under-tenants.

Recovery of arrears of tax or duty from or by farmers.

LXXXV. Within the limits of any Military Contonment and within a circle drawn at a distance of two miles, or such other distance as may in any case be prescribed by Government, from such limits, licenses for the manufacture of spirits and for the sale of spirituous and fermented liquors shall not be granted, nor shall the duties leviable upon such spirits and liquors be let in farm, otherwise than with the knowledge and consent of the Commanding Offficer: and upon the requisition of such Officer ,any license which may have been granted, either by the Collector or by a farmer within such circle or limits, shall be immediately withdrawn.

Rules respecting the manufacture and sale of spirits, &c., in Military Cantonment.

LXXVI. In all other respects, the foregoing provisions of this Act shall have full force and effect within such circle and limits as aforesaid. Provided, however, that, when arrest or search is to be made within the limits of any Cantonment, the Collector or other officer authorized under this Act to make arrest or search shall, whenever it may be practicable, give previous notice to the Commanding Officer, and in all other cases shall report the arrest or search to such Commanding Officer with as little delay as possible. Provided also, that nothing herein contained shall affect or interfere with the provisions of Act XVIII. of 1853.

Mode of making arrest or search within Military Cantonments.

LXXXVII. In the districts in which the poppy is cultivated on account of Government, the Deputy Opium Agents and Sub-deputy Agents shall exercise the powers vested by this Act in Collectors, so far as the same relate to the suppression of illegal dealings in opium; and the officers of the Opium Department shall exercise the powers vested by this Act in Abkaree officers for the seizure of illicit opium and the arrest of persons found in possession thereof, and, in respect to such seizures and arrests, shall be held and deemed to be Abkaree officers within the meaning of this Act.

Powers vested in officers of the opium Department.

LXXXVIII. Nothing in this Act relating to the grant of licenses for the sale of spirituous and fermented liquors, and intoxicating drugs, and the recovery of arrears of tax or duty due under such licenses, to the illicit sale, carrying, or possession of spirituous and fermented liquors and intoxicating drugs, and the penalties incurred thereby, and to the appointment, duties, and responsibilities of Abkaree officers, shall extend to the Town of Calcutta; but, with respect to all such matters the provisions of Act XI. of 1849 shall continue in full force and effect, as if this Act had not been passed.

Provisions not applicable to the Town of Calcutta.

LXXXIX. This Act shall commence and have effect from and after the first day of February 1857.

Commencement of Act.

XC. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

Construction.

The word "Government" shall mean the Lieutenant-Governors of Bengal or the North-Western Provinces.

The expression "Board of Revenue" shall mean the Board of Revenue in Calcutta and the Sudder Board of Revenue at Agra.

The word "Commissioner" shall mean the Commissioner of a Revenue Division, or a Commissioner of Abkaree.

The word "Collector" shall include a Deputy Collector, or other Revenue officer in independent charge of a district, and a Superintendent of Abkaree Revenue.

The word "Magistrate" shall include a Joint Magistrate, or other person lawfully exercising the powers of a Magistrate, and any Assistant or Deputy Magistrate with special powers, stationed at a place other than the sudder station of the Magistrate and empowered to try cases without reference from the Magistrate.

The expression "Country spirit" shall mean any spirit made by the native process of distillation.

The expression "Intoxicating drugs" shall include ganjah, bhang, churrus, and opium, and every preparation and admixture of the same.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

FORM OF BOND UNDER SECTIONS XI. AND XVI.

Know all men by these presents, That we are jointly and severally held and firmly bound unto the East India Company, in the sum of Company's Rupees to be paid to the said East India Company; for which payment well and truly to be made, we jointly and severally bind ourselves, and each of us binds himself and each and every one of our respective heirs, administrators, and representatives by these presents,

Sealed with our seals.

Dated this day of 18 . Whereas the above bounden are justly and truly indebted to the East India Company in the sum of Company's Rupees being the amount of duty payable to the East India Company, at the rate of one Rupee per imperial gallon London-proof, for gallons of [*or for gallons of proof spirit used in the preparation of dozens of bottles or gallons of cordials and liquors as specified in the annexed Schedule*] manufactured at which the said has been allowed to remove thence for exportation by sea subject to the provisions of Act XXI. of 1856 without having paid the amount of such duty. Now the condition of the obligation is such that, if the above-bounden his or their heirs, executors, administrators, or representatives, or some or one of them, do and shall, at the expiration of four calendar months from the date of his obligation, well and truly pay or cause to be paid to the said East India Company duty at the rate of one Rupee per imperial gallon of proof spirit for all or any portion of the above-mentioned which shall not have been then exported by sea, subject to the aforesaid provisions (of which exportation, if any, due proof shall be given) or passed for local consumption on payment of duty, then this obligation to be void, otherwise to remain in full force and virtue.

Sealed and delivered
in the presence of

(*If the bond be for cordials and other liquors under Section XVI, add*)

SCHEDULE.

Description of Cordials and Liqueurs.	Quantity in bottles or gallons.	Quantity of proof spirit.

ACT No. XXII OF 1856.

1. *Tolls may be levied on the Kurratiya.*
2. *But not till measures have been taken for improving the navigation.*
3. *Boats, &c., may be detained and sold for non-payment of toll.*
4. *Penalty for unlawful detention.*
5. *Government may authorize any person to carry out objects of Act.*
6. *And may make a grant of the tolls.*

An Act for establishing a Toll on Boats and Timber passing through the Kurratiya river in the district of Bogra.

WHEREAS it is expedient, with a view to afford facilities for the internal commerce of the Districts of Dinagepore, Rungpore, and Bogra, to adopt measures for the improvement of the navigation of that part of the Kurratiya river, which lies within the districts of Bogra, and whereas any measure which may be adopted for this purpose will necessarily occasion a considerable outlay at the first, and an annual expense thereafter, and it is just and reasonable that, to defray the same, a moderate toll should be levied on all boats, timber, rafts, and floats passing through or within such part of the said river; and whereas it is expedient to encourage individual enterprise, and the employment of private capital on works of public utility: It ts enacted as follows:—

Tolls may be levied on the Kurratiya.

I. Tolls, at the rates specified in the Schedule annexed to this Act, may be levied on all boats, timber, rafts, and floats, passing through or within the aforesaid part of the Kurratiya river, at such stations or places as the Lieutenant-Governor of Bengal may from time to time appoint. The said tolls shall be levied by such persons, and under such rules, as the said Lieutenant-Governor may direct; and all such rules shall be duly notified in the English and Vernacular *Gazettes* for public information.

But not till measures have been taken for improving the navigation.

II. Provided, that no such toll shall be levied until the Lieutenant-Governor of Bengal shall be satisfied, by the report of a competent person, that effective measures have been taken to render the passage through the said part of the Kurratiya river navigable throughout the year. Provided also, that levy of the said tolls shall be continued only so long as the passage is kept so navigable.

Boats, &c., may be detained and sold for non-payment of toll.

III. Any person duly appointed or authorized to collect the said tolls may detain any boat, timber, raft, or float, for which the toll chargeable under this Act is not paid; and, on the report of such person, which report shall be made within twenty-four hours, the Deputy Collector of Bogra, or other public officer duly authorized by Government in that behalf, may publish a notice appointing a day for the sale of the same. At or after the time appointed by the notice, which shall not be less than fifteen days from the date of the publication thereof, if the toll be not paid, or sufficient cause for non-payment be not shown to the satisfaction of the Deputy Collector or other officer as aforesaid, such officer may sell the thing detained, or, in the case of a boat, such part of the tackle or lading thereof, or, in the case of a raft or float, such part of the same as may be necessary for the recovery of the toll, and shall pay the overplus, if any, to the owner on demand.

Penalty for unlawful detention.

IV. Any person who, under color of this Act, shall unlawfully detain any boat, timber, raft, or float, or shall neglect, or without lawful excuse delay, to report the detention of any boat, timber, raft, or float, to the Deputy Collector or other officer as aforesaid, or shall demand or receive as toll any larger sum than is authorized by the Schedule annexed to this Act, shall, on conviction before a Magistrate, or other officer exercising the powers of Magistrate, forfeit a sum not exceeding two hundred Rupees.

Government may authorize any person to carry out objects of Act.

V. For the purpose of carrying out the objects of this Act, the Lieutenant-Governor of Bengal may authorize any public officer to cut any canal, clear and deepen any channel, stop any water-course, or take any other measure which may be judged necessary for making the river navigable as aforesaid, or may grant the like authority to any private person who may undertake to carry out those objects at his own expense; and may take possession, as for a public purpose, of any land that may be necessary for the execution of any of the above mentioned works, under the provisions of Regulation I. of 1824, or of any Act that may hereafter be in force for taking possession of land for public purposes, whether the said works are to be executed at the expense of Government, or of such private person as aforesaid.

And may make a grant of the tolls.

VI. If the Lieutenant-Governor shall grant authority to any private person to carry out the objects of this Act at his own expense, he may also make a grant of the said tolls to such person upon such conditions and for such a term as to

the said Lieutenant-Governor shall appear just and proper, and may authorize such person, or any person or persons employed by him, to collect the said tolls.

SCHEDULE

Of tolls chargeable on boats, timbers, rafts, and floats, passing into or through the Kuratiya river within the district of Bogra.

Budgerows, Bauleahs, and other Boats for personal accommodation	4 annas per oar.
Boats of burthen, empty	At the rate of 2 annas per 100 mds. burthen.
Ditto Ditto laden with bricks, tiles, and earthenware; straw, grass, reeds, and fire-wood; fruit and vegetables	At the rate of 4 annas per 100 mds. burthen.
Ditto Ditto with grain, pulse, seeds, and any other article not expressly enumerated	At the rate of 12 annas per 100 mds. burthen.

Timbers in rafts or otherwise, not being in boats, 2 annas each timber.

Bamboos in floats, 4 annas per 100 bamboos.

Every boat less than 50 maunds burthen shall be rated as 25 maunds,—every boat of 50 maunds and less than 75 maunds shall be rated as 50 maunds,—every boat of 75 maunds and less than 100 maunds shall be rated as 75 maunds,—every boat of 100 maunds and less than 125 maunds shall be rated as 100 maunds, and so on.

Any number of bamboos less than an even hundred shall be rated as 100.

ACT No. II OF 1857.*

1. *Incorporation.*
2. *Power to hold and dispose of property.*
3. *Constitution of Body Corporate. Senate. Office vacated by leaving India.*
4. *Chancellor.*
5. *Vice-Chancellor.*
6. *Fellows.*
7. *The appointment of a Fellow may be cancelled.*
8. *Chancellor, Vice-Chancellor, and Fellows to superintend the affairs of the University. Bye-laws.*
9. *Meetings of the Senate.*
10. *Appointment and removal of Examiners and Officers.*
11. *Power to confer degrees.*
12. *Qualification for admission of Candidates for degrees.*
13. *Examination for degrees.*
14. *Grant of degrees.*
15. *Fees. Annual accounts.*

An Act to establish and incorporate an University at Calcutta.

WHEREAS, for the better encouragement of Her Majesty's subjects of all classes and denominations within the Presidency of Fort William in Bengal and other parts of India in the pursuit of a regular aud liberal course of education, it has been determined to establish an University at Calcutta, for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and of rewarding them by Academical Degrees as evidence of their respective attainments, and marks of honor proportioned thereunto ; and whereas, for effectuating the purposes aforesaid, it is expedient that such University should be incorporated ; It is enacted as follows : (that is to say)—

Incorporation.

I. The following persons, namely,

The Right Honorable CHARLES JOHN VISCOUNT CANNING, Governor-General of India.

The Honorable JOHN RUSSEL COLVIN, Lieutenant Governor of the North-Western Provinces.

The Honorable FREDERICK JAMES HALLIDAY, Lieutenant-Governor of Bengal.

The Honorable SIR JAMES WILLIAM COLVILE, Knight, Chief Justice of the Supreme Court of Judicature in Bengal.

The Right Reverend DANIEL WILSON, Doctor of Divinity, Bishop of Calcutta.

The Honorable GEORGE ANSON, General, Commander-in-Chief of the Forces in India.

The Honorable JOSEPH ALEXANDER DORIN, Member of the Supreme Council of India.

The Honorable JOHN LOW, Major General, Companion of the Most Honorable Order of the Bath, Member of the Supreme Council of India.

The Honorable JOHN PETER GRANT, Member of the Supreme Council of India.

The Honorable BARNES PEACOCK, Member of the Supreme Council of India.

CHARLES ALLEN, Esquire, Member of the Legislative Council of India.

HENRY RICKETTS, Esquire, Provisional Member of the Supreme Council of India.

CHARLES BINNY TREVOR, Esquire, Judge of the Sudder Court in Bengal.

Prince GHOLAM MUHAMMUD.

WILLIAM RITCHIE, Esquire, Advocate General in Bengal.

CECIL BEADON, Esquire, Secretary to the Government of India.

Colonel HENRY, GOODWYN, of the Bengal Engineers, Chief Engineer in Bengal.

WLLIAM GORDON YOUNG, Esquire, Director of Public Instruction in Bengal.

Lieut-Colonel WILLIAM ERSKINE BAKER, of the Bengal Engineers, Secretary to the Government of India.

Lieut-Colonel ANDREW SCOTT WAUGH, of the Bengal Engineers, Surveyor General of India.

KENNETH MACKINNON, Esquire, Doctor in Medicine.

HODGSON PRATT, Esquire, Inspector of Schools in Bengal.

HENRY WALKER, Esquire, Professor of Anatomy and Physiology in the Medical College of Bengal.

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* See Act XLVII, 1860 Sec., 2.

THOMAS THOMSON, Esquire, Doctor in Medicine, Superintendent of the Botanical Garden at Calcutta.
FREDERICK JOHN MOUAT, Esquire, Doctor in Medicine, and Fellow of the Royal College of Surgeons.
Lieutenant WILLIAM NASSAU LEES, of the Bengal Infantry.
The Reverend WILLIAM RAY, Doctor of Divinity, Principal of Bishop's College.
The Reverend ALEXANDER DUFF, Doctor of Divinity,
THOMAS OLDHAM, Esquire, Superintendant of the Geological Survey of India.
HENRY WOODROW, Esquire, Inspector of Schools in Bengal.
LEONIDAS CLINT, Esquire, Principal of the Presidency College.
PROSONNO COOMAR TAGORE, Clerk Assistant of the Legislative Council of India.
RAMAPERSHAD ROY, Government Pleader in the Sudder Court of Bengal.
The Reverend JAMES OGILVIE, Master of Arts.
The Reverend JOSEPH MULLENS, Bachelor of Arts.
Moulavy MUHAMMUD WUJEEH, Principal of the Calcutta Mudrasah.
ISHWAR CHUNDRA BIDYA SAGUR, Principal of the Sanskrit College of Calcutta.
RAMGOPAUL GHOSE, formerly Member of the Council of Education.
ALEXANDER GRANT, Esquire, Apothecary to the East India Company.
HENRY STEWART REID, Esquire, Director of Public Instruction in the North-Western Provinces,

being the first Chancellor, Vice-Chancellor, and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor, or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor, or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Calcutta; and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be answered unto, in every Court of Justice within the territories in the possession and under the Government of the East India Company.

Power to hold and dispose of property.

II. The said Body Corporate shall be able and capable in law to take, purchase, and hold any property, moveable or immoveable, which may become vested in it for the purposes of the said University by virtue of any purchase, grant, testamentary disposition, or otherwise; and shall be able and capable in law to grant, demise, alien, or otherwise dispose of all or any of the property, moveable or immoveable, belonging to the said University; and also to do all other matters incidental or appertaining to a Body Corporate.

Constitution of Body Corporate. Senate. Office vacated by leaving India.

III. The said Body Corporate shall consist of one Chancellor, one Vice-Chancellor, and such number of ex officio and other Fellows as the Governor General of India in Council hath already appointed, or shall from time to time, by any order published in the *Calcutta Gazette*, hereafter appoint; and the Chancellor, Vice-Chancellor, and Fellows for the time being shall constitute the Senate of the said University. Provided that, if any person being Chancellor, Vice-Chancellor, or Fellow of the said University, shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

Chancellor.

IV. The Governor General of India for the time being shall be the Chancellor of the said University, and the first Chancellor shall be the Right Honorable Charles John Viscount Canning.

Vice-Chancellor.

V. The first Vice-Chancellor of the said University shall be Sir James William Colvile, Knight. The office of Vice-Chancellor shall be held for two years only; and the Vice-Chancellor herein before nominated shall go out of office on the first day of January 1859. Whenever a vacancy shall occur in the office of Vice-Chancellor of the said University by death, resignation, departure from India, effluxion of time, or otherwise, the Governor General of India in Council shall, by notification in the *Calcutta Gazette*, nominate a fit and proper person, being one of the Fellows of the said University, to be Vice-Chancellor in the room of the person occasioning such vacancy. Provided that, on any vacancy in the said office which shall occur by effluxion of time, the Governor General of India in Council shall have power to re-appoint the Vice-Chancellor herein-before nominated or any future Vice-Chancellor to such office.

Fellows.

VI. The Lieutenant-Governors of Bengal and the North Western Provinces, the Chief Justice of the Supreme Court of Judicature at Fort William in Bengal or of any Court of Judicature hereafter to be constituted to or in which he powers of the said Supreme Court may be transferred or vested, the Bishop of of Calcutta, and the Members of the Supreme Council of India all for the time being, shall be ex-officio Fellows of the said University. The whole number of the Fellows of the said University, exclusive of the Chancellor and Vice-Chancellor for the time being, shall never be less than thirty; and whenever the num-

ber of the said Fellows exclusive as aforesaid, shall by death, resignation, departure from India, or otherwise, be reduced below thirty, the Governor General of India in Council shall forthwith, by notification in the *Calcutta Gazette*, nominate so many fit and proper persons to be Fellows of the said University, as with the then Fellows of the said University, shall make the number of such Fellows, exclusive as aforesaid, thirty. But nothing herein contained shall prevent the Governor General of India in Council from nominating more than thirty persons to be Fellows of the said University, if he shall see fit.

The appointment of a Fellow may be cancelled.

VII. The Governor General of India in Council may cancel the appointment of any person already appointed, or hereafter to be appointed a Fellow of the University, and as soon as such order is notified in the *Gazette*, the person so appointed shall cease to be a Fellow.

Chancellor, Vice-Chancellor, and Fellows to superintend the affairs of the University. Bye-laws.

VIII. The Chancellor, Vice-Chancellor, and Fellows for the time being shall have the entire management of and superintendence over the affairs, concerns, and property of the said University; and in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor, and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University. The said Chancellor, Vice-Chancellor, and Fellows shall have full power from time to time to make and alter any bye-laws and regulations (so as the same be not repugnant to law, or to the general objects and provisions of this Act), touching the examination for Degrees and the granting of the same; and touching the examination for Honors and the granting of marks of honor for a higher proficiency in the different branches of Literature, Science and Art; and touching the qualifications of the candidates for Degrees, and the previous course of instruction to be followed by them, and the preliminary examinations to be submitted to by them; and touching the mode and time of convening the meetings of the Chancellor, Vice-Chancellor, and Fellows; and, in general, touching all other matters whatever regarding the said University. And all such bye-laws and regulations, when reduced into writing, and after the common seal of the said University shall have been affixed thereto, shall be binding upon all persons, members of the said University, and all candidates for Degrees to be conferred by the same, provided such bye-laws and regulations shall have been first submitted to and shall have received the approval of the Governor-General of India in Council.

Meetings of the Senate.

IX. All questions which shall come before the Chancellor, Vice-Chancellor, and Fellows, shall be decided at a meeting of the Senate by the majority of the members present; and the Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a seccond or casting vote. No question shall be decided at any meeting, unless the Chancellor, or Vice-Chancellor, and five fellows, or, in the absence of the Chancellor and Vice-Chancellor, unless six Fellows at the least shall be present at the time of the decision. At every meeting of the Senate, the Chancellor, or in his absence the Vice-Chancellor, shall preside as Chairman; and, in the absence of both, a Chairman shall be chosen by the Fellows present, or the major part of them.

Appointment and removal of Examiners and Officers.

X. The said Chancellor, Vice-Chancellor, and Fellows for the time being shall have full power from time to time to appoint, and, as they shall see occasion, to remove all Examiners, Officers, and servants of the said University.

Power to confer degrees,

XI. The said Chancellor, Vice-Chancellor, and Fellows, shall have power, after examination, to confer the several Degrees of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, and Master of Civil Engineering; they shall also have power, after examination, to confer upon the candidates for the said several Degress marks of honor for a high degree of proficiency in the different branches of Literature, Science, and Art, according to rules to be determined by the bye-laws to be from time to time made by them under the power in that behalf given to them by this Act. *

Qualification for admission of Candidates for degrees.

XII. Except by special order of the Senate, no person shall be admitted as a candidate for the Degree of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, or Master of Civil Engineering, unless he shall present to the said Chancellor, Vice-Chancellor and Fellows, a certificate from one of the Institutions authorized in that behalf by the Governor General of India in Council, to the effect that he has completed the course of instruction prescribed by the Chancellor, Vice-Chancellor, and Fellows of the said University, in the bye-laws to be made by them under the power in that behalf given by this Act.

Examination for degrees.

XIII. The said Chancellor, Vice-Chancellor, and Fellows shall cause an examination for Degrees to be held at least once in every year; on every such examination, the candidates shall be examined either by Examiners appointed for

* *See* Act XLVII. 1860.

the purpose from among the Fellows by the said Chancellor, Vice-Chancellor, and Fellows, or by other Examiners so to be appointed; and on every such examination the candidates, whether candidates for an ordinary Degree or for a Degree with honors, shall be examined on as many subjects and in such manner as the said Chancellor, Vice-Chancellor, and Fellows shall appoint.

Grant of degrees.

XIV. At the conclusion of every examination of the candidates, the Examiners shall declare the name of every candidate whom they shall have deemed entitled to any of the said Degrees, and his proficiency in relation to other candidates; and also the Honors which he may have gained in respect of his proficiency in that department of knowledge in which he is about to graduate; and he shall receive from the said Chancellor a certificate, under the seal of the said University of Calcutta and signed by the said Chancellor or Vice-Chancellor, in which the particulars so stated shall be declared.

Fees. Annual accounts.

XV. The said Chancellor, Vice-Chancellor, and Fellows shall have power to charge such reasonable fees for the Degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the Governor General of India in Council, shall from time to time see fit to impose. Such fees shall be carried to one general Fee Fund for the payment of expenses of the said University, under the directions and regulations of the Governor General of India in Council, to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said Governor General of India in Council may direct.

ACT No. III OF 1857.

1. Laws repealed.
2. Cattle doing damage to land may be seized and impounded.
3. Where pounds shall be established.
4. Control and management of pounds.
5. Seizure to be registered. Pound-keeper to take charge of and feed cattle.
6. Fines.
7. Procedure, if owner appear and claim the Cattle.
8. Procedure, if cattle be not claimed within a specified time.
9. Procedure, if owner appear and refuse or omit to pay the fines and expenses. Proviso.
10. Police Officers and pound-keepers not to purchase Cattle at a sale under this Act.
11. Disposal of sale proceeds, fines, and expenses.
12. Fines and unclaimed proceeds of sale to form a fund for the payment of pound-keepers. &c.
13. Penalty for forcibly opposing the seizure of Cattle or rescuing the same.
14. Owner may prefer complaint to Magistrate within ten days from date of seizure of his Cattle. Procedure. Damages for illegal seizure. Moonsiffs and others may be invested with power to adjudicate under this Section.
15. Impounding of Cattle doing damage to roads, embankments, &c.
16. Impounding of stray Cattle, the owners of which are unknown.
17. Recovery of penalty for mischief committed by causing Cattle to trespass.
18. Penalty for damage caused to land or crops by pigs. Application of fines.
19. Saving of right of parties to institute a suit for the recovery of damages in any competent Court. Proviso.
20. Local Government, with the sanction of the Governor General in Council, may exclude any district, &c., from the operation of this Act.
21. Interpretation.
22. Commencement of Act.

An Act relating to Trespasses by Cattle.

WHEREAS loss and injury are suffered by cultivators and occupiers of land from damage done to crops and other produce of land by the trespass of Cattle; and whereas damage is done to the sides and slopes of public roads and embankments by cattle trespassing thereon; and whereas it is expedient to authorize the seizure and detention of Cattle doing damage as aforesaid, and also to make

provision for the disposal of cattle found straying in any public place: It is enacted as follows:—

I. Repealed by Act XIV. of 1870.

II. It shall be lawful for the cultivator or occupier of any land to seize or cause to be seized any cattle trespassing on such land, and doing damage to such land or any crop or produce thereon, and to convey them without unnecessary delay to the pound established for the village or township in which the land is situate. Village and other Police Officers, when called upon, shall give their aid to* cultivators and occupiers making such seizures.

Cattle doing damage to land may be seized and impounded.

III. Pounds shall be established at the thannahs or district Police stations, and at such other places as the Magistrate, under the orders of the local Government, may determine. The village or villages by which every pound is to be used shall be determined and notified by the Magistrate.

Where pounds shall be established.

IV. † The pounds shall be under the control of the Magistrate of the district, and for each pound a pound-keeper shall be appointed, who shall keep such registers and furnish such returns as the local Government shall direct. Provided, that in the presidencies of Fort St. George and Bombay, the heads of villages and Police patells shall be ex-officio the keepers of village-pounds.

Control and management of pounds.

V. When Cattle are brought to a pound, the pound-keeper shall enter in his register the number and description of the animals, the name and residence of the seizer, and the name and residence of the owner if known, and shall give a copy of the entry to the seizer. The pound-keeper shall take charge of and feed the Cattle, until disposed of as hereinafter directed.

Seizures to be registered. Pound-keeper to take charge of and feed cattle.

VI. For every head of Cattle impounded as aforesaid, a fine shall be levied according to the following scale:—

Fines.

	Annas.
Camel or Buffaloe	... 8
Horse or Tattoo, Bull, Bullock or Cow...	... 4
Calf or Ass	... 2
Sheep or Goat	... 1

and no Cattle shall be released by a pound-keeper without the payment of such fine, unless the release be ordered by competent authority.

VII. If the owner appear and claim the Cattle, they shall be delivered to him on payment of the prescribed fine together with the expense of feeding the Cattle at such rates as may from time to time be fixed by the Magistrate; and the owner, on taking back his Cattle, shall sign a receipt for them in the register kept by the pound-keeper. A Schedule of the fines and of the rates of charge for feeding Cattle shall be stuck up in a conspicuous place on or near to every pound.

Procedure, if owner appear and claim the Cattle.

VIII. If the Cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall make his report to the Darogah or district Police Officer, who shall stick up in a conspicuous part of the Police Office a notice containing a statement of the number and description of the Cattle, the place where they were seized, and the place where they are impounded, and shall cause proclamation of the same to be made by beat of drum in the village, and at the market place, nearest to the place of seizure. If the Cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the Darogah or district Police officer or an officer of his establishment deputed for the purpose.

Procedure, if cattle be not claimed within a specified time.

IX. If the owner appear, and refuse or omit to pay the fines and expenses, the Cattle or as many of them as may be necessary, shall be sold by public auction for the recovery of such fines and expenses by the Darogah or other Officer as aforesaid; and the remaining Cattle and the balance of the purchase money, if any, shall be delivered to the owner, together with an account showing the number of Cattle seized, the time during which they have been impounded, the charge for fines and expenses, the number of Cattle sold, the proceeds of sale, and the manner in which those proceeds have been disposed of; and the owner shall grant a receipt for the Cattle delivered to him and for the balance of the purchase money paid to him (if any) according to such account. Provided always, that, if a complaint against the seizure shall have been preferred under the provisions of Section XIV of this Act, no sale shall be made until the case shall have been decided, nor otherwise than according to the order which may be passed in such case.

Procedure, if owner appear and refuse or omit to pay the fines and expenses. Proviso.

X. Police Officers and pound-keepers are prohibited from becoming, directly or indirectly, purchasers of any Cattle at a sale under this Act.

Police Officers and pound-keepers not to purchase Cattle at a sale under this Act.

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* *See* Act XXII. 1861, Sec. VI.
† *See* Act V. 1860.

Disposal of sale proceeds, fines, and expenses.

XI. When Cattle are sold under the provisions of this Act, the fines leviable and the expenses of feeding, together with the expenses of sale, if any, shall be deducted from the sale proceeds. The fines so recovered, as well as all fines received by the pound-keepers under Section VII, shall be transmitted to the Magistrate by the Darogah, or district Police Officer. The expenses of feeding realized by sale shall be paid over to the pound-keepers, who shall also retain and appropriate all sums received by them on account of such expenses under Section VII. The surplus proceeds of the sale of unclaimed Cattle shall be transmitted to the Magistrate, who shall hold them in deposit for three months, and if no claim to them be preferred and established within that period, shall at its expiry dispose of them as hereinafter provided.

Fines and unclaimed proceeds of sales to form a fund for the payment of pound-keepers, &c.

XII. The sums received on account of fines and the unclaimed proceeds of the sale of unclaimed Cattle shall form a fund which shall be available for the payment of any salaries which may be allowed to pound-keepers under the orders of the local Government, or of expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act.

Penalty for forcibly opposing the seizure of Cattle or rescuing the same.

XIII. Every person who shall forcibly oppose the seizure of Cattle doing damage to land or to crops or other produce of land, or shall forcibly rescue the same after seizure, either from a pound or from the seizer when conveying or about to convey them to a pound, shall be liable for such offence to imprisonment, with or without labor, for a period not exceeding six months, or to a fine not exceeding five hundred Rupees, or to both. Offences under this Section shall be dealt with by the Police Officers according to the provisions of Section XXV Regulation XX. 1817 of the Bengal Code, Section XXVII Regulation XII. 1816 of the Madras Code, and Section XLIII. Regulation XII. 1827 of the Bombay Code.*

Owner may prefer complaint to Magistrate within ten days from date of seizure of his Cattle. Procedure. Damages for illegal seizure. Moonsiff's and others may be invested with power to adjudicate under this Section.

XIV. † Any person whose Cattle shall have been seized and detained as doing damage to land or any crop or produce thereon, may prefer a complaint against the seizure, at any time within ten days from the date thereof, to the Magistrate, or to any Joint, Deputy or Assistant Magistrate, or other officer having criminal jurisdiction, authorized to receive and try charges without reference by the Magistrate. The complaint may be either verbal, in which case the substance of it shall be taken down in writing by the Magistrate or other officer as aforesaid, or written upon plain paper, and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances. The Magistrate or other officer as aforesaid, if on examination of the complainant or his agent he shall see reason to believe the complaint to be well founded, shall summon the party complained against, and shall proceed to make a summary enquiry into the case. If the seizure be adjudged illegal, the Magistrate or other officer as aforesaid shall award to the complainant such damages, not exceeding in any case the sum of one hundred Rupees, as he may deem to be a reasonable compensation for any loss or injury sustained from the unlawful seizure and detention, together with all expenses incurred by the complainant in procuring the release of the Cattle; or, if the Cattle have not been released, the Magistrate or other officer as aforesaid, in addition to the award of damages, shall make an order for their release, and shall direct that the fines and expenses leviable under this Act shall be paid by the party who made the seizure. Moonsiffs and other Judicial Officers having original jurisdiction, and not invested with criminal powers, may be specially invested by the local Government with the power of receiving and trying complaints under this Section, and in the exercise of such powers shall be subject to the same rules as Assistants and other officers subordinate to the Magistrate.

Impounding of Cattle doing damage to roads, embankments, &c.

XV. Persons in charge of public roads, canals, embankments, and the like, may seize or cause to be seized any Cattle doing damage to the sides or slopes of such roads, canals, embankments, and the like; and all the foregoing provisions of this Act shall be applicable to such seizures.

Impounding of stray Cattle, the owners of which are unknown.

XVI. Village and other Police Officers shall convey to the pounds established under Section III of this Act all Cattle, the owners of which are unknown, found straying in any public road or place; and the provisions of this Act relative to the detention, release, and sale of Cattle seized as trespassing and doing damage, shall be applicable to all Cattle impounded as aforesaid.

Recovery of penalty for mischief committed by causing Cattle to trespass.

XVII. When any person commits mischief by causing Cattle to trespass on any land, the penalty provided for such offence may be adjudged on the complaint of any person authorized to seize Cattle under Section II of this Act, or of any person who may have made advances for the cultivation of the land and delivery of the produce; and any fine which shall be so adjudged may be recover-

* *See* Act V. 1860.

† *See* Act V. 1860, and by Act XVII, 1862, Schedule.

ed by sale of the Cattle by which the trespass was committed, or any portion of them, whether the Cattle were seized in the act of trespassing or not, and whether such Cattle are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

Penalty for damage caused to land or crops by pigs. Application of fines.

XVIII. Any person, being an owner or keeper of pigs, who, through neglect or otherwise, shall damage or cause or permit to be damaged any land or any crop or produce of land by allowing pigs to trespass thereon, shall be liable for such offence to a fine not exceeding ten Rupees. All sums recovered under this and the last preceding Section may be appropriated, in whole or in part, to compensate the complainant for damage proved to the satisfaction of the Magistrate.

Saving of right of parties to institute a suit for the recovery of damages in any competent Court. Proviso.

XIX. Nothing contained in this Act shall be held to prohibit any person, whose crops or other produce of land shall have been damaged by trespass of Cattle, from instituting a suit for the recovery of damages in any competent Court. Provided, that any compensation which may have been paid to any such person by order of the Magistrate shall be set off and deducted from any sum claimed by or awarded to him as damages in such suit.

Local Government, with the sanction of the Governor-General in Council, may exclude any district, etc., from the operation of this Act.

XX. The local Government, with the sanction of the Governor-General in Council, may exclude from the operation of this Act any district or tract of country to which its provisions may be judged unsuitable.

Interpretation.

XXI. In the construction of this Act, words importing the singular number shall include the plural, and words importing the plural number shall include the singular ; words importing the masculine gender shall include females ; the word "Magistrate" shall include a Joint Magistrate, or other officer lawfully exercising the powers of a Magistrate ; the expression "Darogah or District Police Officer" shall, in the North Western Provinces of the Presidency of Fort William, include Tuhseeldar or Naib Tuhseeldar entrusted with Police powers.

XXII. *Repealed by Act XIV. of 1870.*

ACT No. V. OF 1857.*

1. Power to break up streets, &c., under superintendence, and to open drains.
2. Company not to enter on private land without consent.
3. Notice to be served before breaking up streets or opening drains.
4. Streets or drains not to be broken up, except under superintendence of persons having control of the same. If persons having the control fail to superintend, Company may proceed with the work.
5. Streets broken up to be re-instated without delay.
6. Penalty for delay in re-instating streets.
7. In case of delay, other parties may re-instate and recover the expenses. Expense how to be ascertained and recovered.
8. Power to enter buildings for ascertaining quantity of Gas consumed.
9. Recovery of rent due for Gas.
10. Power to take away pipes when supply of Gas discontinued.
11. Meters not liable to distress for rent, &c.
12. Penalty for fraudulently using Gas.
13. Penalty for wilfully damaging pipes.
14. Satisfaction for accidentally damaging pipes.
15. Penalty for causing water to be corrupted. Daily penalty during the continuance of the offence.
16. Daily penalty during escape of Gas after notice.
17. Penalty if water be fouled by Gas.
18. Power to examine Gas-pipes to ascertain cause of water being fouled.
19. Expenses to abide result of examination.
20. How expenses to be ascertained.
21. Liability to indictments for nuisance.

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* See Act XI. 1867.

22. *Copies of the original Deed of Association and of all Rules, &c., to be kept for inspection at the Office of the Company in Calcutta, and in the Office of the Registrar of Joint Stock Companies, or the Keeper of the Records of the Supreme Court at Fort William.*
23. *Service of Process.*
24. *Recovery of Penalties, &c.*
25. *Levy by distress.*
26. *No distress unlawful for want of form, &c.*
27. *Interpretation.*

AN ACT to confer certain powers on the Oriental Gas Company, Limited.

WHEREAS a Joint Stock Company has been lately formed for the purpose of introducing Gas-works into India, which Company having been completely registered in England under the Act of Parliament of the eighth year of the reign of her present Majesty, Cap. 110, has since been registered in England under "The Joint Stock Companies' Act, 1856," with limited liability, and has duly obtained a certificate of Incorporation under the name of the Oriental Gas Company, Limited; And Whereas the said Company has erected Gas-works on land granted for that purpose by Government in the vicinity of the Town of Calcutta, and is engaged in the preparation of apparatus and materials for the manufacture and supply of Gas for lighting the said Town; And Whereas it is expedient that powers and facilities should be given to the said Company to enable them to carry out their undertaking of lighting with Gas the said Town of Calcutta, which powers and facilities may hereafter be extended to the operations of the said Company in other Towns and places: It is enacted as follows:—

Power to break up streets, etc., under superintendence, and to open drains.

I. In the Town of Calcutta and its environs, and in any other Town or place to which the provisions of this Act may hereafter be extended by a law to be passed for that purpose, the Oriental Gas Company, Limited, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes, conduits, service-pipes, and other works, and from time to time repair, alter, or remove the same, and also make any sewers, that may be necessary for carrying off the washings and waste liquids which may arise in the making of the Gas; and, for the purposes aforesaid, may remove and use all earth and materials in and under such streets and bridges; and they may in such streets erect any pillars, lamps and other works, and do all other acts which the said Company shall from time to time deem necessary for supplying Gas to the inhabitants of the said Town of Calcutta and its environs, or other Town or place as aforesaid, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

Company not to enter on private land without consent.

II. Provided always that nothing herein shall authorize or empower the said Company to lay down or place any pipe or other works, into through, or against any building, or in any land not dedicated to public use, without the consent of the owners and occupiers thereof; except that the said Company may at any time enter upon and lay or place any new pipe in the place of an existing pipe, in any land wherein any pipe has been already lawfully laid down or placed ed in pursuance of this Act, and may repair or alter any pipe so laid down.

Notice to be served before breaking up streets or opening drains.

III. Before the said Campany proceed to open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the Municipal Commissioners for the Town of Calcutta, or other persons under whose control or management the same may be, or to their Clerk, Surveyor, or other officer, notice in writing of their intention to open or break up the same, not less than three clear days before beginning such work; except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

Streets or drains not to be broken up, except under superintendence of persons having control of the same. If persons having the control fail to superintend, Company may proceed with the work.

IV. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by a Magistrate; and such Magistrate may, on the application of the persons having the control or management of any such sewer or drain, or their officer, reuqire the said Company to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain. Provided always, that, if the persons having such control or

management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the said Company's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said Company may perform the work specified in such notice without the superintendence of such persons or their officer.

Streets broken up to be re-instated without delay.

V. When the said Company open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall, with all convenient speed, complete the work for which the same shall be broken up, and fill in the ground, and re-instate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be open or broken up, every night during which the same shall be continued open or broken up; and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Penalty for delay, other parties may re-instate.

VI. If the said Company open or break up any street or bridge, or any sewer, drain, or tunnel, wihout giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the said Company are hereby authorized to perform such works without any superintendence or notice; or if the said Company make any delay in completing any such work, or in filling in the ground or re-instating and making good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby; or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same shall have been made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such default is made, a sum not exceeding fifty Rupees for every such offence, and they shall forfeit an additional sum, not exceeding fifty Rupees, for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of delay, other parties may re-instate and may recover expenses.

VII. If any such delay or omission as aforesaid take place, the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed; and the expense of executing the same shall be repaid to such persons by the said Company; and the amount of such expense shall, in case of any dispute about the same, be ascertained and recovered in Calcutta and in any other Town or place subject to the jurisdiction of any of Her Majesty's Courts of judicature, in the manner in which expenses are ascertained and recovered under Act XIV. of 1856, and in any Town or place not within the jurisdiction of any of Her Majesty's, Courts, in the same manner as damages are recoverable under this Act.

Power to enter buildings to ascertain the quantity of Gas consumed.

VIII. The Clerk, Engineer or other officer duly appointed for the purpose by the said Company, may, at all reasonable times, enter any buildings or place lighted with Gas supplied by the said Company, in order to inspect the meters, fittings, and works for regulating the supply of Gas, and for the purpose of ascertaining the quantity of Gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall, for every such offence, forfeit to the said Company a sum not exceeding fifty Rupees.

Recovery of rent due for Gas.

IX. If any person supplied with Gas, or any person to whom any meter or fitting shall have been let for hire by the said Company, neglect to pay the rent due for the same to the said Company, the said Comdany may stop the Gas from entering the premises of such person, by cutting off the service-pipes, or by such means as the said Company shall think fit, and recover the rent due from such person, together with the expenses of cutting off the Gas, by action in any Court of competent jurisdiction.

Power to take away pipes, when supply of Gas discontinued.

X. In all cases in which the said Company are authorized to cut off and take away the supply of Gas from any house or building or premises under the provisions of this Act, the said Company, their agents or workmen, after giving twenty-four hours' previous notice to the occupier, may enter into any such house, build-

ing, or premises, between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any pipe, meter, fittings, or other works, the property of the said Company.

Meters not liable to distress for rent, &c.

XI. Any meter or fitting let for hire by the said Company shall not be subject to distress for rent or revenue or any rate due upon the premises where the same may be used, nor be taken in execution under any process of a Court of law or equity, or any proceeding in Insolvency against the person in whose possession the same may be.

Penalty for fraudulently using Gas.

XII. Every person who shall lay, or cause to be laid, any pipe to communicate with any pipe belonging to the said Company, without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in case the Gas supplied by the said Company is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the said Company, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use or burn the Gas, or shall supply any other person with any part of the Gas supplied to him by the said Company, shall forfeit to the said Company the sum of fifty Rupees for every such offence, and also the sum of twenty Rupees for every day such pipe shall so remain, or such works or burner shall be so used, or such excess be so committed or continued, or such supply furnished; and the said Company may take off the Gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously enteredinto.

Penalty for wilfully damaging pipes.

XIII. Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, plug, lamp, or other work of the said Company for supplying Gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the Gas supplied by the said Company, shall, for each such offence, forfeit to the said Company any sum not exceeding fifty Rupees, in addition to the amount of the damage done.

Satisfaction for accidentally damaging pipes.

XIV. Every person who shall carelessly or accidentally break, throw down or damage any pipe, pillar, or lamp belonging to the said Company or under their control, shall pay such sum of money by way of satisfaction to the said Company for the damage done, not exceeding fifty Rupees, as any Magistrate shall think reasonable.

Causing water to be corrupted. Daily penalty during the continuance of the offence.

XV. If the said Company shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, pond, or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying Gas, or shall wilfully do any act connected with the making or supplying of Gas, whereby the water in any such stream, reservoir, aqueduct, pond, or place for water shall be fouled, the said Company shall forfeit for every offence a sum not exceeding one thousand Rupees; and they shall forfeit an additional sum not exceeding five hundred Rupees for each day during which such washing or other substance shall be brought or shall flow, or the act by which such water shall be fouled shall continue, after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the said Company, by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby; and such penalties shall be paid to such last-mentioned person.

Daily penalty during escape of Gas after notice.

XVI. Whenever any Gas shall escape from any pipe, laid down or set up by or belonging to the said Company, they shall, immediately after receiving notice thereof in writing, prevent such Gas from escaping; and in case the said Company shall not, within twenty-four hours next after service of such notice, effectually prevent the Gas from escaping, and wholly remove the cause of complaint, they shall for every such offence forfeit the sum of fifty Rupees for each day during which the Gas shall be suffered to escape, after the expiration of twenty-four hours from the service of such notice.

Penalty if water be fouled by Gas.

XVII. Whenever any water shall be fouled by the Gas of the said Company, they shall forfeit to the person whose water shall be so fouled for every such offence a sum not exceeding two hundred Rupees, and a further sum, not exceeding one hundred Rupees, for each day during which the offence shall continue, after the expiration of twenty-four hours from the service of notice of such offence.

Power to examine Gas-pipes to ascertain cause of water being fouled.

XVIII. For the purpose of ascertaining whether such water be fouled by the Gas of the said Company, the person to whom the water supposed to fouled shall belong may dig up the ground and examine the pipes, conduits, and works of the said Company; provided that such person, before proceeding so to dig and examine, shall give twenty-four hours' notice in writing to the said Company of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement, or place where such digging is to take place, and they shall be

subject to the like obligation of re-instating the said road and pavement, and the same penalties for delay, or any nonfeasance or misfeasance therein, as are hereinbefore provided with respect to roads and pavements broken up by the said Company, for the purpose of lying their pipes.

Expenses to abide result of examination.

XIX. If upon any such examination it appear that such water has been fouled by any Gas belonging to the said Company, the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the said Company; but if upon such examination it appear that the water has not been fouled by the Gas of the said Company, the person causing such examin tion to be made shall pay all such expenses, and shall also make good to the said Company any injury which may be occasioned to their works by such examination.

How expenses to be ascertained.

XX. The amount of the expenses of every such examination and repairs and of any injury done to the said Company, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the manner prescribed for the ascertainment and recovery of expenses in Section VII of this Act.

Liability to indictments for nuisance.

XXI. Nothing in this Act contained shall prevent the said Company from being liable to an indictment for nuisance, or to any other legal proceedings to which they may be liable in consequence of making or supplying Gas.

Copies of the original Deed of Association and of all Rules, etc., to be kept for inspection at the Office of the Company in Calcutta and in one of two other places.

XXII. A copy of the original Deed of Association of the said Company and of every other instrument registered under the said "Joint Stock Companies' Act, 1856," as constituting the Regulations of the said Company, and a copy of every special resolution of a General Meeting whereby any change shall have been, or at any time shall be, made in the Regulations of the said Company, shall be kept at the Office of the said Company in Calcutta, and shall there be open to the inspection of all persons during the usual hours of business of the said Office; and a copy of such original Deed of Association, and of every other such instrument, and of every special resolution as aforesaid, shall also be deposited by the said Company as soon as it can be done after the passing of this Act, or after the making of any such special resolution hereafter to be made, in the office of the Registrar of Joint Stock Companies; or, if there be no such Officer, in the office of the Keeper of the Records of the Supreme Court of Judicature at Fort William, and shall there be filed; and an examined copy of any such filed copy as aforesaid, certified by and under the hand of the Registrar of Joint Stock Companies, or of the Keeper of the Records of the said Supreme Court shall be good and sufficient evidence of each original deed, instrument, or special resolution, in all actions suits, and proceedings whatsoever, whether Civil or Criminal, to be had in any Court of Justice or before any Magistrate, or Revenue or other Officer, and whether acting judicially or in any proceeding preliminary to a judicial inquiry throughout the Territories of the East India Company.

Service of process.

XXIII. All services of mesne or other process, and all notices whatsoever, which, by law or by the practice of any Court wherein the said Company shall sue or be sued, are required to be made, served, or given for any purpose whatsoever to the said Company, shall and may be made, served, and given, in addition to all ways and means by which the same may otherwise be legally made, served, and given, by leaving the same addressed to the Managing Agent of the said Company at the Office in Calcutta of the said Company.

Recovery of penalties, etc.

XXIV. All penalties and forfeitures imposed by this Act and all damages and expenses, the recovery of which is not specially provided for, may be recovered by summary proceeding before a Magistrate.

No distress unlawful for want of form, etc.

XXV. All penalties, forfeitures, damages, and expenses adjudged due under this Act, if the amount be not otherwise paid, may be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the overplus arising from such goods and chattels, after satisfying such amount and the expenses of the distress and sale, shall be returned on demand to the party whose goods shall have been distrained; or instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of any penalties, forfeitures, damages, or expenses imposed or incurred under the provisions of this Act, the person claiming such penality, forfeiture, damage, or expenses, may sue the the person liable to pay the same in any Court of competent jurisdiction.

Levy by distress.

XXVI. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall any such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of comptent jurisdiction.

Interpretation.

XXVII. The following words and expressions used in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number.

Words importing the masculine gender shall include females.

The word "person" shall include a corporation, whether aggregate or sole.

The word "street" shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place.

The word "Magistrate" shall include any Magistrate of Police, and any Joint Magistrate or other person lawfully exercising the powers of Magistrate, acting at or for the place or district where the matter requiring the cognizance of any such Magistrate arises.

ACT NO. X. OF 1857.

An Act to amend Act XXXVII. of 1855.

WHEREAS by Act XXXVII of 1855 certain Districts described in the Schedule to the said Act were removed from the operation of the General Regulations and Acts; and whereas it is expedient to make certain alterations in respect to the Districts so removed: It is enacted as follows:—

* * * *

all the provisions of the said Act, which are applicable to the Districts described in the said Schedule, shall after the passing of this Act, be applicable only to the Districts described in the Schedule to this Act, in the same manner as if the Schedule to this Act, had been the Schedule to Act XXXVII. of 1855.

SCHEDULE.

The Damun-i-Koh.

So much of Purgunnah Bhaugulpore and of Pergunnah Suttiaree as lies East of the Gerooah Nuddee and South of a line drawn Eastward from Humza Chuck to the village of Dighee.

ZILLAH BHAUGULPORE.	Pergunnah Teleeagurhee, " Jamoonee, " Chetowleah. " Kankjole. " Bahadurpore. " Akbernugger. " Inayutnugger. " Mukraen. " Sooltangunge. " Umber. " Sooltanabad. " Goodda. " Umloo Mooteah. " Pussye. " Hendwa. Tuppeh Muneeharee. " Belputta.	Except such parts of them as are now or may hereafter be situate on the left bank of the main stream of the Ganges, so that in any change in the course of the river the main stream shall be the boundary.
ZILLAH BEERBHOOM.	Pergunnah Pubbia. Tuppeh Saruth Deoghur. " Kundit Kurayeh. " Mohumdabad. Such part of Pergunnoh Dureen Molisser as lies North of the Chilla or Chundun Ghat Nullah.	Except such detached villages as lie within the general boundaries of Pergunnahs not mentioned in this Schedule.

Such detached portions of other Pergunnahs and Tuppehs as lie within the general boundaries of any of the above-mentioned Pergunnahs and Tuppehs.

Such portions of Pergunnahs belonging to Maldah and Purneah, below the village of Kheederpore in Pergunnah Teleeagurhee, as are now or may hereafter be situate on the right bank of the main stream of the Ganges.

ACT NO. XI. OF 1857.

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3. *Executive Government may issue a Commission for the trial of persons charged with certain offences in any proclaimed District.*
4. *Government may vest certain power in the Court.*
5. *Magistrate may commit persons for trial before a Court held under this Act.*
6. *Act not to apply to British-born subjects or their children.*
7. *Government may issue proclamation prohibiting the carrying or possession of arms in any District.*
8. *Penalty for unlawful possession of arms, &c.*
9. *Magistrate empowered to search houses, &c., and to seize arms.*
10. *Government may grant exemption to certain persons.*
11. *Interpretation.*

An Act for the prevention, trial, and punishment of Offences against the State.

WHEREAS it is necessary to make due provision for the prevention, trial, and punishment of Offences against the State; It is enacted as follows :—

I. Repealed by Act XVII, 1862.

II. Repealed by Act XVII, 1862.

III. *Clause* 1.—Whenever the Executive Government of any Presidency or place within the said territories shall proclaim that any District subject to its Government is or has been in a state of rebellion, it shall be lawful for such Government to issue a Commission for trial of all persons who shall be charged with having committed within such District, after a day to be specified in the Commission, any of the crimes mentioned in the preceding Section, or any other crime against the State, or murder, arson, robbery, or other heinous crime against person or property.

Government may issue a Commission for the trial of persons charged with certain offences in any proclaimed District.

Clause 2.—The Commissioner or Commissioners authorized by any such Commission may hold a Court in any part of the said District mentioned in the Commission, and may there try any person for any of the said crimes committed within any part thereof; it being the intention of this Act, that the District mentioned in the Commission shall, for the purpose of trial and punishment of any of the said offences, be deemed one District.

IV. It shall be lawful for the executive Government, by such Commission, to direct that any Court held under the Commission shall have power, without the attendance or futwa of a Law Officer, or the assistance of Assessors, to pass upon every person convicted before the Court of any of the aforesaid crimes any sentence warranted by law for such crime; and that the judgment of such Court shall be final and conclusive, and that the said Court shall not be subordinate to the Sudder Court.

Government may vest certain powers in such Court.

V. If a Commission be issued under the authority of this Act, any Magistrate within the District which is described in the Commission may commit persons charged with any of the aforesaid crimes within such District for trial before a Court to be held under this Act.

Magistrate may commit persons for trial before such Court.

VI. Nothing in this Act shall extend to the trial or punishment of any of Her Majesty's natural-born subjects born in Europe, or of the children of such subjects.

Act not to apply to European British subjects.

VII. Whenever the Executive Government shall deem in necessary for the public safety, it shall lawful for such Government to declare, by proclamation, that from and after a day to be named therein, it shall not be lawful for any person, or for any specified class of persons, to carry or have in their possession any arms or instruments used for warlike purposes, or any specified description of arms or instruments aforesaid, within any District mentioned in the proclamation.

Government may issue proclamation prohibiting the carrying or possession of arms in any District.

Penalty for unlawful possession of arms, etc.

VIII. After the day named in the proclamation, whoever shall carry, or have in his possession, any arms or other such instrument as aforesaid contrary to the proclamation, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty Rupees, or to imprisonment for a period not exceeding six months; and the arms or other such instrument as aforesaid shall be confiscated.

Warrant to search houses, etc., and to seize arms.

IX. It shall be lawful for a Magistrate, by warrant, to cause search to be made in any house or other place in which there may be reasonable grounds for suspecting that any arms or other such instruments as aforesaid, kept contrary to the proclamation, may be found; and any such arms or instrument may be seized and confiscated.

Government may grant exemption to certain persons.

X. Nothing in Sections VII, VIII, and IX of this Act shall extend to any person who may be exempted by the authority of the Executive Government from the prohibition contained in such proclamation.

Interpretation.

XI. The word "Magistrate" in this Act shall include any person lawfully exercising the powers of a Magistrate and any Assistant to a Magistrate or Deputy Magistrate specially authorized by the Executive Government to exercise the powers vested in a Magistrate by this Act.

ACT No. XIII. OF 1857.

1. Laws repealed.
2. Poppy cultivation and Opium manufacture, except for Government, prohibited.
3. To what Agents the superintendence of the provision of Opium shall be intrusted.
4. Opium Agents amenable to the Civil Courts. No suit to be brought unless application for redress be first made to Agent.
5. Opium Agent not to sue without sanction of Board of Revenue.
6. Board of Revenue may in certain cases appoint an Officer to conduct or defend suits.
7. Board to fix limits of cultivation and price to be paid to cultivators.
8. Issue of licenses. What to be specified in license.
9. Cultivator to have option whether to engage to cultivate or not. Officers compelling cultivator to enter into engagement liable to be dismissed. Sub-deputy Agent may, subject to appeal, withhold license to cultivate.
10. Penalty on cultivator who has received advances but neglects to cultivate the full quantity of land. Adjudication of penalty.
11. Delivery of the Opium produced. Such Opium not liable to distress or, attachment. Value thereof may be attached.
12. Opium to be weighed and classified by Sub-deputy Agent. Proceeding when cultivator is dissatisfied with classification.
13. Weighing and examination of Opium at the Sudder Factory.
14. Confiscation of adulterated Opium. Adjudication of confiscation.
15 Weights and scales.
16. Adjustment of cultivator's accounts, and recovery of balance by distress Proviso.
17. Penalty on Officer taking bribes.
18. Sum illegally exacted by land-holder from ryot on account of rent of Poppy land or illegal cess, may be recovered, together with a penalty, in summary suit before Collector.
19. Penalty for embezzlement of Opium by cultivator.
20. Penalty for illegal purchase of Opium from cultivator. And for illegal connivance by an Opium Officer at embezzlement.
21. Penalty for unlicensed cultivation.
22. Duty of land-holders and others to give information of illegal cultivation.
23. Duty of Police and other Officers to give information of illegal cultivation.
24. Police or Abkaree Darogah how to proceed, in case of illegal cultivation.
25. Land-holders, &c., may attach in cases of illegal cultivation.
26. Adjudication of penalties.
27. Imprisonment in default of payment of fines under this Act.

28. Punishment for repetition of offences.
29. Place of imprisonment under the last Section.
30. Disposal of fines and forfeitures.
31. Governor General in Council may allow free cultivation of Poppy and manufacture of Opium in any District. Proviso.

AN Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal.

WHEREAS the existing law relating to the cultivation of the Poppy and the manufacture of Opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed; and whereas it is also expedient that certain obsolete Regulations relating to the provision of Opium should be formally repealed, and that the laws for preventing the illicit cultivation of the Poppy, and for regulating the cultivation of the Poppy and the manufacture of Opium on account of Government, should be consolidated and amended: It is enacted as follows:—

I. Repealed by Act XIV. of 1870.

Poppy cultivation and Opium manufacture, except for Government, prohibited.

II. The cultivation of the Poppy and the manufacture of Opium within the territories under the Presidency of Fort William in Bengal, except on account of Government, are hereby prohibited.

To what Agents the superintendence of the provisions of Opium shall be intrusted.

III. The superintendance of the provision of Opium for Government shall be intrusted to Agents, or other Officers, being covenanted servants of the Company duly appointed by Government in that behalf, who shall perform the duties connected therewith under the control and direction of the Board of Revenue in Calcutta. The Agents, or other Officers as aforesaid, shall be assisted by Deputy Agents and Sub-deputy Agents, or such other Officers, covenanted or uncovenanted, as the Government may from time to time appoint for the purpose. The Collector of the District shall ordinarily, and unless Governmented shall otherwise direct, be *ex-officio* Deputy Agent; and the relative duties and powers of the Deputy Agents and Sub-deputy Agents shall be from time to time regulated by the said Board with the sanction of Government.

Opium Agents amenable to the Civil Courts. No suit to be brought unless application for redress be first made to Agent.

IV. The Opium Agents, and their subordinate Officers of every description, are declared amenable to the Civil Courts for all acts done by them in their official capacity, except as otherwise herein provided. But no suit shall be instituted against an Agent or any subordinate Officer, for any act done in his official capacity unless the person who shall consider himself aggrieved by the act of such Agent or Officer shall have first made application for redress to the Agent himself. In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before the Board of Revenue, or at once to seek redress in the Civil Court.

Opium Agent not to sue without sanction of Board of Revenue.

V. The Opium Agents shall not in their official capacity institute any suit in a Civil Court without the previous sanction of the Board of Revenue.

Board of Revenue may appoint an Officer to conduct or defend suits.

VI. In cases in which the Board of Revenue may judge it expedient, or in which they may be so directed by Government, they may take upon themselves, or intrust to an Officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which they, or an Agent, or any other Officer subordinate to them may be engaged, instead of leaving such superintendence to the Agent or any other Officer.

Board to fix limits of cultivation and price to be paid to cultivators.

VII. The Board of Revenue, with the sanction of Government, shall from time to time fix the limits within which licenses may be given for the cultivation of the Poppy on account of Government. With the like sanction they shall from time to time fix the price to be paid to the cultivators for the Opium produced. The price shall be fixed at a certain sum per seer of eighty tolahs for Opium of a certain standard consistence, and shall be subject to a rateable reduction, according to a scale sanctioned by the Board of Revenue, for Opium of a consistence below the standard.

Issue of licenses. What to be specified in license.

VIII. The Sub-deputy Agents, or other Officers entrusted with the superintendence of the cultivation, shall, at the proper period of the year issue licenses to the cultivators, who may choose to engage to cultivate the Poppy and to deliver the produce to the Officers of Government at the established rates. Every license shall specify the number of beegahs which the party engages and is authorized to cultivate, and shall be in such form as the Agent, with the sanction of the Board of Revenue, may direct. A counterpart engagement, in conformity with the tenor of the license shall be taken from the cultivator.

Cultivator to have option whether to engage to cultivate or not. Officers compelling cultivator to enter into engagement liable to be dismissed.

IX. It shall be at the option of every cultivator to enter into engagements for the cultivation of the Poppy or not, as he may think fit; and any Sub-deputy Agent or other Officer as aforesaid, or any inferior Officer employed in the provision of Opium, who shall compel, or use any means to compel, any cultivato, to enter into engagements or to receive advances for the cultivation of the Poppyf shall be liable to be dismissed from his situation. It shall be at the option or the Sub-deputy Agent, or other Officer as aforesaid, to withhold a license from any cultivator whenever he may think proper so to do. Any person to whom a license has been refused may appeal to the Agent, and the decision of the Agent shall be final.

Penalty on cultivator who has received advances but neglects to cultivate the full quantity of land.

X. If it shall be found that any cultivator, who has received advances from Government, has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received from the land which he has failed to cultivate, and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the Sub-deputy Agent or other Officer as aforesaid. Any person dissatisfied with the judgment of the Deputy Agent or Collector may appeal to the Agent, and the decision of the Agent shall be final.

Delivery of the Opium produced. Such Opium not liable to distress or attachment. Value thereof may be attached.

XI. All Opium the produce of land cultivated with Poppy on account of Government shall be delivered by the cultivators to the Sub-deputy Agents or other District Officers, or shall be brought by them to the Sudder Factory, as the Agent may direct. And no such Opium shall be liable to be distrained or attached by a Zemindar or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court, but the sum due to the cultivator on account of such Opium may be attached by order of the Court in the hands of the Agent or of the District Officer under the rules in force for such attachments.

Opium to be weighed and classified by Sub-deputy Agent. Proceeding where cultivator is dissatisfied with classification.

XII. All Opium delivered by the cultivators to the Sub-deputy Agent or other District Officer, shall, before it is forwarded to the Sudder Factory, be weighed, examined, and classified according to its quality and consistence by that officer, or his assistant if duly authorized by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by the Board of Revenue. Any cultivator, who may be dissatisfied with the classification of the District Officer, shall be at liberty either to take his Opium to the Sudder Factory, or to have it forwarded thither by such officer separate from the Opium respecting which no dispute has arisen.

Weighing and examination of Opium at the Sudder Factory.

XIII. All Opium forwarded by the District Officers to the Sudder Factory, and all Opium delivered at the Sudder Factory by the cultivators, shall be there weighed and examined by the Opium Examiner, or other officer duly authorized in that behalf, agreeably to rules sanctioned by the Board of Revenue; and the quality and consistence of the Opium, and the deductions from or additions (if any) to the standard price, to be made in accordance with the said rules, shall be determined by the result of such examination. The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

Confiscation of adulterated Opium. Adjudication of confiscation.

XIV. When Opium delivered by a cultivator, either to a District Officer, or at the Sudder Factory, is suspected of being adulterated with any foreign substance, it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator. If upon such examination the Opium shall be found to be so adulterated, the Agent on the report of the Examiner may order that it be confiscated; and the order of the Agent shall be final, and not open to question in any Court.

Weights and scales.

XV. The weights and scales made use of in the Sudder Factories, and at the District Kothees, shall be provided by the Board of Revenue. Every District Officer shall annually, before beginning to weigh the Opium of the season, examine the weights and scales in use in his District and shall report the result of such examination to the Agent. The Agent shall make a similar examination of the weights and scales of the Sudder Factory, and shall report the result to the Board. No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate. It shall be the duty of all Officers who may superintend the weighing of Opium, to see that the Opium is weighed fairly with an even beam, and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

Adjustment of cultivator's accounts, and recovery of balance by distress. Proviso.

XVI. The accounts of the cultivators shall be adjusted annually by the District Officers as soon after the conclusion of the weighing and examination as possible; and any balance thst may remain due from any cultivator, or from any muhto or intermediate manager, may be recovered by the District Officer by distress and sale of the property of the defaulter or of his surety, in the same

manner and under the same rules as the property of defaulting cultivators in estates held khas may be distrained and sold by the Collector for the recovery of an arrear of rent or Revenue. Provided, that no warrant of distress and sale shall be issued by any District Officer without the sanction of the Agent previously obtained.

Penalty on Officer taking bribes.

XVII. Any Officer of the Opium Department who shall receive any fee, gratuity, perquisite, or allowance, either in money or effects, under any pretence whatsoever, from any cultivator, or from any other person employed or concerned in the provision of Opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred Rupees.

Sum illegally exacted by land-holder from ryot on account of rent of Poppy land or illegal cess, may be recovered, together with a penalty, in summary suit before Collector.

XVIII. If any zemindar, or other proprietor of land, or any farmer of land, shall exact from any ryot on account of his Poppy land, any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the ryot, or the Sub-deputy Agent or other District Officer on his behalf, may institute a suit before the Collector, and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent.

Penalty for embezzlement of Opium by cultivator.

XIX. Any cultivator entering into engagements for the cultivation of the Poppy on account of Government, who may embezzle, or otherwise illegally dispose of, any part of the Opium produced, shall be liable to a penalty not exceeding ten times the fixed price of the Opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred Rupees, if the amount of the said penalty be less than that sum, and the Opium, if found, shall be liable to confiscation.

Penalty for illegal purchase of Opium from cultivator And for illegal connivance by an Opium Officer at embezzlement.

XX. Any person purchasing or receiving any Opium from a cultivator or other person who may have entered into engagements for the cultivation of the Poppy, or who may be employed in the provision of Opium on account of Government, or bargaining for the purchase of Opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any Opium, and any Officer of the Opium department conniving in any way at the embezzlement or illegal disposal of any Opium, shall be liable to a fine not exceeding one thousand Rupees, unless the Opium purchased, bargained for, or illegally disposed of, shall exceed the weight of thirty-one seers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two Rupees per seer for all such Opium in excess of that weight; and the Opium, if found, shall be liable to confiscation.

Penalty for unlicensed cultivation.

XXI. Any person who shall cultivate the Poppy without license from a Sub-deputy Agent or other officer duly authorized in that behalf, and any person who shall in any any way cause, encourage, or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred Rupees, unless the quantity of land so illegally cultivated shall exceed twenty beegahs, in which case the fine may be at the rate of twenty-five Rupees per beegah; and the Poppy plants shall be destroyed, or, if any Opium have been extracted from them, it shall be seized and confiscated. If the Opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two Rupees per beegah of land illegally cultivated.

Duty of land-holders and others to give information of illegal cultivation.

XXII. All proprietors, farmers, tuhseeldars, gomashtahs, and other managers of land, shall give immediate information to the Police or abkaree Darogahs, or Opium Gomashtahs, or to the Magistrates, Collectors, or Officers in charge of the Abkaree Mehal, or to the Agents, their Deputies, or Sub-deputies, of all Poppy which may be illegally cultivated within the estates or farms held or managed by them; and every proprietor, farmer, tuhseeldar, gomashtah, or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding Section.

Duty of Police and other Officer to give information of illegal cultivation.

XXIII. All Police and Abkaree Darogahs, and Opium Gomashtahs, and all native Officers of Government of whatever description, and all Chowkeydars and other village Pykes Police Officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with Poppy; and such authority shall transmit the information to the Sub-deputy Agent, or other officer superintending the cultivation of the Poppy, if in a District where the Poppy is cultivated on account of Government, or to the Collector or officer in charge of the Abkaree Mehal, if in a District where the Poppy is not so cultivated. Every Police or Abkaree Darogah, Opium Gomashtah, Native Officer, Chowkeydar, or other Police Officer as aforesaid, who shall neglect to give such information, or shall in any respect connive

at the illicit cultivation of the Poppy, shall be liable to a fine not exceeding one thousand Rupees if the offender be an Officer of the Opium department, or in any other case to a fine not exceeding five hundred Rupees.

Police or Abkaree Darogah how to proceed, in case of illegal cultivation.

XXIV. Whenever a Police or Abkaree Darogah or Opium Gomashtah shall receive intelligence of any land within his jurisdiction having been illegally cultivated with Poppy, he shall immediately proceed to the spot, and if the information be correct, shall attach the crop so illegally cultivated, and report the same wihout delay to the authority to which he may be subordinate. He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate; and in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

Land holders, etc., may attach in cases of illegal cultivation.

XXV. Proprietors, farmers, tuhseeldars, gomashtahs, and other managers of land, shall be at liberty to attach any Poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest Police or Abkaree Darogah, or Opium Gomashtah, who shall thereupon proceed in conformity with the rules contained in the last preceding Section.

Adjudication of penalties.

XXVI. Except as otherwise herein provided, all fines, penalties, and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-Deputy Agent in Districts in which the Poppy is cultivated on account of Government, and in other Districts on the information of the Collector or officer in charge of the Abkaree Mehal; Provided, that no information of an offence against this Act shall be admitted, unless it be preferred within the period of one year after the commission of the offence to which the information refers.

Imprisonment in default of payment of fines under this Act.

XXVII. When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any time not exceeding six months, or until the fine is sooner paid.

Punishment for repetition of offences.

XXVIII. Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence; he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Place of imprisonment under the last Section.

XXIX. Every person who shall be imprisoned under the last preceding Section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an Officer of Government or a village Police Officer convicted of an offence under Section XVII, XX, or XXIII, shall be imprisoned in the Civil Jail.

Disposal of fines and forfeitures.

XXX. One-half of all fines and penalties levied from persons convicted of offences under Sections XIX, XX, and XXI of this Act, together with a reward of one Rupee eight annas for each seer of Opium confiscated and declared by the Civil Surgeon to be fit for use, shall upon adjudication of the case be awarded to the Officer or Officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one Rupee eight annas for each seer of Opium confiscated as aforesaid, shall be given to the informer. If in any case the fine or penalty is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred Rupees, as may seem to them fit.

Governor General in Council may allow free cultivation of Poppy and manufacture of Opium in any District. Proviso.

XXXI. The Governor General of India in Council may authorize, by an Order of Government, the cultivation of the Poppy and the manufacture of Opium in any District or Districts without license from a Sub-deputy Opium Agent or other Officer of Government; and when such order has been published, all the provisions of this Act shall cease to have effect in such Districts or District. Provided always, that the Government may prescribe rules for the delivery of the Opium so produced to Officers of Government appointed to receive it; and when such rulas have been passed, any cultivator or other person engaged in the cultivation of the Poppy and manufacture of Opium who shall dispose of any Opium otherwise than is allowed by such rules, and any person who shall purchase or receive any such Opium in contravention of the said rules, shall be subject to the penalties prescribed in Section XIX of this Act, and such penalties may be adjudged by a Magistrate on the information of any Officer of Government or of any other person.

ACT No. XX. OF 1857.

1. Government empowered to regulate the rate of diet-money prescribed in Section LXII, Act IX. of 1850.
2. Court may vary the rate, in case of illness or for other special cause.
3. Construction.

An Act to amend Act IX. of 1850.

WHEREAS it is expedient that authority should be given to vary the rate of diet-money to be deposited for the subsistence of persons imprisoned under Act IX of 1850. It is enacted as follows :—

Government empowered to regulate the rate of diet-money prescribed in Section LXII, Act IX. of 1850.

I. Whenever, with reference to the price of provisions in any Presidency, the Governor in Council shall be of opinion that the rate of diet-money prescribed in Section LXII. of Act IX of 1850 is insufficient for the subsistence of persons imprisoned under that Act, it shall be lawful for the Governor in Council from time to time to fix such other rate, not exceeding three annas for each day, as may to him seem sufficient.

Court may vary the rate, in case of illness or for other special cause.

II. It shall be lawful for a Judge of a Court of Small Causes holden under the said Act, in case of illness or for other special cause, to order that the diet-money to be deposited for the subsistence of a prisoner taken in execution under a warrant of the Court shall be deposited after such rate, not exceeding six annas for each day, as may to him seem necessary. Every such order may from time to time be revised and altered on due cause being shown.

Construction.

III. This Act shall be read with and taken as a part of Act IX. of 1850.

ACT No. XXI. OF 1857.*

1. Cases under this Act by whom to be tried.
2. Possession of stolen property by one who fails to account satisfactorily for the possession.
3. Apprehension and punishment of reputed thieves, &c.
4. Penalty for carrying arms without authority.
5. Magistrate may make order for maintenance of wives or children.
6. Panalty for harbouring and concealing deserters from merchant vessels.
7. Brothels.
8. Licenses for retail sales of spirituous or fermented liquors to be granted with concurrence of Magistrate.
9. Revocation of license.
10. Penalty for owning or keeping, or having charge of, a gaming-house, &c.
11. Penalty for being found playing in a gaming-house.
12. Magistrate may authorize certain Police Officers to enter a gaming-house for the purpose of search and seizure.
13. On conviction for keeping a gaming-house, instruments of gaming to be destroyed, &c.
14. Portion of fine may be paid to Informer.
15. Gambling in the streets.
16. Pawn-brokers and money-changers to report stolen property, under a penalty for neglect.
17. If stolen articles be altered or defaced by broker, after information of the theft, he shall be deemed a receiver of stolen goods.
18. Manufacture or possession of Gunpowder.
19. Licenses by Magistrate for sale and deposit of Gunpowder, &c.
20. Penalty for drunkenness, or riotous or indecent behaviour in public.
21. Penalty for committing a nuisance in streets.
22. Beggars.
23. Penalty for specified offences in public streets, &c.
24. Beating drums, tom-toms, &c.

* Sects 25 to 49 inclusive not to have effect in places to which Act 14 1864 B.C. is extended. This Act is repealed by section 52 Act 11. 1866. B. C. so for as it applies to such portion of the Suburbs as are subject to the operation of said Act and again by VIII 1868 B. C. as regards the Suburbs of Calcutta.

25. *Depositing dirt on street, &c.*
26. *Allowing sewerage to flow on streets.*
27. *Future obstructions in streets or roads. Power to remove.*
28. *Taking up pavements.*
29. *Future projections from houses to be removed.*
30. *Removal of existing projections from houses. Notice of removal. Compensation when to be made.*
31. *Houses projecting beyond line of street when taken down to be set back.*
32. *Power to trim hedges and trees bordering roads.*
33. *Houses in a ruinous and dangerous state.*
34, *Sale of materials of ruinous houses.*
35. *Penalty on occupier of a house not removing filth.*
36. *Filthy houses, &c.*
37. *Penalty for keeping sheep-pen, &c., in a filthy state.*
38. *Licensing of public necessaries.*
39. *Penalty for keeping private drain, &c., in improper state.*
40. *Fouling water by—Bathing.—Washing.—Throwing rubbish, &c. Allowing drain water to flow into a public tank.*
41. *Power to fill up unwholesome tanks on private premises.*
42. *Power to drain off and cleanse stagnant pools in open places.*
43. *Penalty for not lighting deposits of building materials or excavations.*
44. *Places dangerous to passengers to be repaired or enclosed.*
45. *Penalty for establishing a slaughter-house without license, after passing of Act.*
46. *Penalty for keeping slaughter-house in improper state.*
47. *Penalty for establishing offensive and dangerous trades within certain limits.*
48. *No burial or burning places henceforth to be constructed without leave of Magistrate.*
49. *Magistrate may order certain burial or burning places to be closed. Penalty for burying or burning in such places.*
50. *Stray dogs.*
51. *Police Officer may arrest wihout warrant on view of offence.*
52. *Police Officer may take into custody, without warrant, persons chargea with aggravated assault recently committed.*
53. *Persons taken into custody by a Police Officer without warrant may be detained in Police Office, until brought before a Magistrate, or bailed.*
54. *Procedure on information or complaint laid before the Magistrate of an offence against this Act.*
55. *Recovery of costs or expenses.*
56. *Jurisdiction.*
57. *Application of fines,*
58. *Act to supersede the provisions of Act XXI. of 1841,*
59. *Interpretation.*

An Act to make better provision for the order and good government of the Suburbs of Calcutta and of the Station of Howrah.

WHEREAS Acts have been passed for regulating the Police and for the conservancy and improvement of the Town of Calcutta and of the other Presidency Towns; and whereas large portions of the Suburbs of the said Town of Calcutta and of the Station of Howrah are not less populous than parts of the said Town, and it will conduce to the order and good government of the said Suburbs and Station that some of the provisions of the said Acts, with certain necessary modifications, should be extended to the said Suburbs and Station: It is enacted as follows:—

Cases under this Act by whom to be tried.

I. Whoever is charged with having committed any of the offences mentioned in this Act within the limits of the said Suburbs or Station, as described in the Schedule hereunto annexed, may be tried for any such offence by the Magistrate within whose jurisdiction the offence is alleged to have been committed, and on conviction, may be sentenced by such Magistrate to the punishment hereinafter prescribed for the offence.

Possession of stolen property by one who fails to account satisfactorily for the possession.

II. *Clause* 1.—Whoever has in his possession, or conveys in any manner any things which may be reasonably suspected of being stolen or fraudulently obtained, shall, if he fail to acount satisfactorily how he came by the same, be liable to a penalty not exceeding one hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

Clause 2. If any person, charged with having or conveying any thing stolen or fraudulently obtained, shall declare that he received the same from some other person, or that he was employed as a carrier, agent, or servant, to

convey the same for some other person, the Magistrate may cause every such other person, and also, if necessary, every former or pretended purchaser or other person through whose possession the same shall have passed (provided that such other person shall be alleged to have had possession of the same within the jurisdiction of such Magistrate) to be brought before him and examined, and shall examine witnesses touching the same; and if it appear to such Magistrate that any person so brought before him had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be liable to a penalty not exceeding one hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

Apprehension and punishment of reputed thieves, etc.

III. Any person found, between sun-set and sun-rise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any offence against the person or property of another; any reputed thief found, between sun-set and sun-rise, on board any vessel or boat, or lying or loitering in any bazar, street, road, yard, thoroughfare, or other place, who shall not give a satisfactory account of himself; any person found, between sun-set and sun-rise, having his face covered or otherwise disguised, with intent to commit any such offence as aforesaid; any person found, between sun-set and sun-rise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and any person having in his possession, without lawful excuse, (the proof of which excuse shall be on such person), any implement of house-breaking, shall be liable to imprisonment with or without hard labor, for a term not exceeding three months; and any such person may be taken into custody by any Police Officer without a warrant.

Penalty for carrying arms without authority.

IV. Whoever, not being a soldier or sailor in the Army or Navy of the Queen or the East India Company, or a Police Officer, goes armed with any sword, spear, gun, or other offensive weapon in any street, thoroughfare, or public place, unless by leave of the Magistrate, shall be liable to be disarmed by any Police Officer; and the weapon so seized shall be forfeited to the Government, unless redeemed by payment of a fine, at the discretion of the Magistrate, not exceeding ten Rupees.

Magistrate may make order for maintenance of wives or children.

V. If any person, having sufficient means, neglects or refuses to maintain his wife or any legitimate or illegitimate child unable to maintain himself, it shall be lawful for the Magistrate, upon due proof thereof, to order such person to make a monthly allowance for the maintenance of his wife or such child as aforesaid, at such rate, not exceeding fifty Rupees in the whole, as to the Magistrate shall seem reasonable; and if such person shall wilfully neglect to comply with the said order, the Magistrate may, by warrant, direct the amount due to be levied in the manner in which fines may be levied, or may order him to be imprisoned, with or without hard labor, for any term not exceeding one month. Provided always, that any such person shall be at liberty to apply to the Magistrate, from time to time, for a reduction of such monthly allowance, on proof of an alteration in the circumstances of himself, his wife, or child, justifying such reduction.

Penalty for harbouring and concealing deserters from merchant vessels.

VI. Whoever wilfully harbours or conceals any seaman or apprentice belonging to a merchant vessel, knowing, or having reason to believe, such seaman or apprentice to be a deserter, shall be liable to a fine not exceeding One Hundred Rupees.

Brothels.

VII. On the complaint of three or more householders, that a house in their immediate neighbourhood is used as a common brothel or lodging-house for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, the Magistrate may summon the owner or tenant of the house to answer the complaint; and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it; and if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of Twenty-five Rupees for every day thereafter that the house shall be so used.

Licenses for retail sale of spirituous or fermented liquors to be granted with concurrence of Magistrate.

VIII. Except as hereinafter provided, no license shall be granted by the Collector for the sale by retail of any spirituous or fermented liquors in any Hotel, Tavern, Punch-house, Ale-house, Arrack or Toddy Shop, or other place of public resort and entertainment, without the concurrence of the Magistrate. If a difference should arise between the Collector and the Magistrate respecting the grant of any such license, the case shall be reported to the Commissioner of Revenue and Circuit; and the decision of the Commissioner, subject to the orders and control of the Lieutenant-Governor of Bengal shall be final.

Revocation of license.

IX. Whenever any person, being the keeper of any such house or place of public resort and entertainment as aforesaid, is convicted of any of the offences specified in Section XLV, Act XXI of 1856, the Magistrate may, if he think proper

apply to the Collector to revoke the license granted by him to such person ; and upon such application the Collector shall forthwith revoke such license.

Penalty for owning or keeping, or having charge of, a gaming-house, etc.

X. Whoever, being the owner or occupier, or having the use of any house room, or place, keeps or uses the same as a common gaming-house ; and whoever, being the owner or occupier of any house or room, knowingly and wilfull permits the same to be kept or used by any other person as a commongaming-house ; and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room, or place so kept or used ; and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room, or place — shall be liable to a fine not exceeding Two Hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

Penalty for being found playing in a gaming-house.

XI. Whoever is found in any such house, room, or place, playing or gaming with cards, dice, counters, money, or other instrument of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake, or otherwise, shall be liable to a fine not exceeding One Hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding one month ; and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Magistrate may authorize certain Police Officers to enter a gaming-house for the purpose of search and seizure.

XII. If the Magistrate, upon information on oath, and after such enquiry as he may think necessary, has reason to believe that any house, room, or place is used as a common gaming-house, he may by his warrant give authority to any superior Officer of Police to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room, or other place ; and to take into custody all persons whom he finds therein, whether or not then actually gaming ; and to seize all instruments of gaming, and all monies, and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein ; and to search all parts of the house, room, or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody ; and to seize and take possession of all instruments of gaming found upon such search.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed, etc.

XIII. On conviction of any person for keeping any such common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money, and other articles seized not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all monies seized therein, to be forfeited, or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

Portion of fine may be paid to Informer.

XIV. The Magistrate may direct any portion, not exceeding one-fourth, of any fine which shall be levied under Sections X and XI of this Act, or any part of the monies, or proceeds of articles seized and ordered to be forfeited under Section XIII, to be paid to an informer.

Gambling in the streets.

XV. A Police Officer may apprehend without warrant any person found gaming with cards, dice, counters, money, or other instruments of gaming, in any public street, place, or thoroughfare ; and such person shall be liable to a fine not exceeding Twenty Rupees, or to imprisonment, with or without hard labor, for any term not exceeding one month ; and such instruments of gaming and money shall be forfeited.

Pawn-brokers and money-changers to report stolen property, under a penalty for neglect.

XVI. If any property regarding which written or printed information shall be given by any Police Officer to any pawn-broker, or dealer in second-hand property, or money-changer, as having been stolen, embezzled, or fraudulently obtained, shall then be or thereafter come into the possession of, or be offered in pawn or for sale or change to such pawn-broker, dealer, or money-changer, he shall without unnecessary delay give information at the nearest Police Office, that certain property, answering the description of the said property, was offered to him, or is in his possession, and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received, under a penalty not exceeding Fifty Rupees for each and every such neglect or offence ; Provided always that, in the case of wearing apparel or other articles, which it may be difficult for such pawn-broker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawn-broker or dealer.

If stolen articles be altered or defaced by

XVII. If any pawn-broker or dealer in second-hand goods, or worker in gold or silver, after receiving information of the theft, or the embezzling, or the

fraudelent disposal of any metals, goods, or articles of whatsoever description, melts, alters, defaces, or puts away the same, or causes the same to be melted, altered, defaced, or put away, without having previously received permission of the Magistrate, and it shall be found that such metals, goods, or articles were stolen, embezzled, or fraudulently disposed of by the person from whom such pawn-broker, dealer, or worker received the same, or by any other person, then and in such case it shall be held that such pawn-broker, dealer, or worker knew that such metals, goods, or articles were stolen, embezzled, or fraudulently disposed of; and such pawn-broker, dealer, or worker shall be proceeded against according to law as a receiver of stolen goods, or as being a party to the fraud, and punished accordingly; and no other evidence of his guilt shall be necessary than evidence of such melting, altering, defacing, or putting a way, after receiving information as aforesaid.

broker, after information of the theft, he shall be deemed a receiver of stolen goods.

XVIII. Whoever manufactures Gunpowder, or without a license from the Magistrate has in his possession, in any house, shop, ware-house, or other building, at any one time, a greater quantity of Gunpowder than ten pounds, shall be liable to a fine not exceeding Two Hundred Rupees, and also to forfeit such Gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Manufacture or possession of Gunpowder.

XIX. The Magistrate may grant to any person a license for the sale or keeping in deposit of any quantity of Gunpowder not exceeding fifty pounds, on such conditions, and for such term not exceeding one year, as shall be specified in the license; and any person who shall be guilty of a breach of any of such conditions, shall be liable to a fine not exceeding One Hundred Rupees, and to forfeit all Gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also to forfeit his license.

Licenses by Magistrate for sale and deposit of Gunpowder, etc.

XX. Whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous or indecent behaviour, in any street or thoroughfare, or in any place of public amusement or resort, and whoever is guilty of violent behaviour in any Police Office, shall be liable to a fine not exceeding twenty Rupees, or to imprisonment, with or without hard labor, for a term not exceeding fourteen days.

Penalty for drunkenness, or riotous or indecent behaviour in public.

XXI. Whoever wilfully and indecently exposes his person, or commits a nuisance by easing himself in or by the side of or near to any public street or thoroughfare or place, shall be liable to a fine not exceeding Ten Rupees, or, in default of payment thereof, to imprisonment, with or without hard labor, for a term not exceeding fourteen days.

Penalty for committing a nuisance in streets.

XXII. Whoever in any public road, street, thoroughfare, or place, begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment, or deformity, with the object of exciting charity or of obtaining alms; or whoever seeks for or obtains alms, by means of any false statement or pretences—shall be liable to imprisonment, with or without hard labor, for any term not exceeding one month.

Beggars.

XXIII. Whoever, in any public street, road, thoroughfare, or place of public resort, commits any of the following offences, shall be liable to a fine not exceeding Twenty Rupees:—

Penalty for specified offences in public streets, etc.

1. Whoever drives or rides any animals, or drives any vehicle, in a manner so rash or negligent as to indicate a want of due regard for the safety of others.

2. Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry, or put in fear any person, horse or other animal.

3. Whoever being in charge of a cart, carriage, or horse, leaves it at such a distance as not to have the same under due control.

4. Whoever fastens any animal so as to cause obstruction or danger to passengers.

5. Whoever cruelly beats, abuses, or tortures any animal.

6. Whoever sets fire to or burns any straw or other matter, or lights any bon-fire or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon.

XXIV. Within such parts of the said Suburbs or Station as shall be from time to time defined by the Magistrate with the sanction of the Lieutenant Governor of Bengal, whoever beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any metal instrument or utensil, between the hours of ten at night and four in the morning, in any public street, road, or thoroughfare, so as to disturb the repose of the inhabitants, except when permitted by the Magistrate on occasions of festivals and ceremonies, shall be liable to a fine not exceeding Twenty Rupees.

Beating drums, tom-toms, etc.

XXV. Whoever deposits, or permits his servants to deposit, any dust, dirt, dung, ashes, garden, kitchen or stable refuse, or filth of any kind, or any animal

Depositing dirt on street, etc.

matter, or any broken glass or earthen-ware, or other rubbish, in any street, or on any public quay, jetty, ghaut or landing place, except in such places and in such manner and at such hours as shall be fixed by the Magistrate; or throws or puts, or permits his servants to throw or put, any such substances into any public sewer or drain, or into any drain communicating therewith—shall be liable to a fine no exceeding Ten Rupees.

Allowing sewerage to flow on streets.

XXVI. Whoever causes or allows the water of any sink or sewer, or any other offensive liquid matter, belonging to him or being on his land, to run, drain, or be thrown or put upon any street; or causes or allows any offensive matter from any sewer or privy to run, drain, or be thrown into a surface drain in any street—shall be liable to a fine not exceeding Ten Rupees.

Future obstructions in streets or roads. Power to remove.

XXVII. Whoever builds any wall, or erects or sets up any fence, rail, post, or other obstruction or encroachment, in any public street or road, or in or over any open drain, sewer, or aqueduct along the side of any such street or road after the passing of this Act, shall be liable to a fine not exceeding One Hundred Rupees; and the Magistrate shall have power to remove any such obstruction or encroachment and the expense of such removal shall be paid by the person erecting the same and shall be recoverable as hereinafter provided.

Taking up pavements.

XXVIII. Whoever displaces, takes up, or makes any alteration in the pavement or other materials, or in the fences or posts of any public street, without the consent in writing of the Magistrate, or without other lawful authority, shall be liable to a fine not exceeding Fifty Rupees.

Future projections from houses to be removed.

XXIX. The Magistrate may give notice in writing to the owner or occupier of any house or building to remove or alter any projection, encroachment, or obstruction, which, after the passing of this Act, shall be erected or placed against or in front of such house or building, if the same overhangs or juts into, or in any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along any public street, or obstructs or projects, or encroaches into or upon any uncovered aqueduct, drain, or sewer in such street; and such owner or occupier shall, within fourteen days after the service of such notice upon him, remove such projection, encroachment, or obstruction, or alter the same in such as shall have been directed by the Magistrate; and in default thereof, shall be liable to a fine not exceeding Two Hundred Rupees; and the Magistrate in such case may remove such projection, encroachment, or obstruction; and the expense of such removal shall be paid by the owner or occupier so making default, and shall be recoverable as hereinafter provided.

Removal of existing projections from houses. Notice of removal. Compensation when to be made.

XXX. The Magistrate may cause any such projection, encroachment, or obstruction erected or placed against or in front of any house or building, in any public street before the passing of this Act, to be removed or altered as he shall think fit; Provided, that he give notice of such intended removal or alteration to the occupier of the house or building against or in front of which such projection, encroachment, or obstruction shall be, thirty days before such alteration or removal is begun; and if such projection, encroachment, or obstruction shall have been lawfully made, he shall make reasonable compensation to every person who suffers damage by such removal or alteration.

Houses projecting beyond line of street when taken down to be set back.

XXXI. When any house or building, any part of which projects beyond the regular line of a public street, or beyond the front of the house or building on either side thereof, has been taken down in order to be re-built or altered, the Magistrate may require the same to be set back to or towards the line of the street or the line of the adjoining houses or buildings, and shall make reasonable compensation to the owner of any such house or building for any damage he may thereby sustain. If any dispute shall arise touching the amount of compensation to be allowed under this or the preceding Section, the same shall be settled in the manner provided by the laws in force for the settlement of disputes respecting compensation for lands taken for public surposes.

Power to trim hedges and trees bordering roads.

XXXII. The Magistrate may give notice to the owner or occupier of any land to cut and trim any hedges and trees overhanging any public road or streets so as to obstruct the passage or to cause damage thereto; and in the event of such notice not being complied with within eight days from the date thereof, the Magistrate may cause the said hedges and trees to be cut and trimmed in the manner required; and the expense incurred by the Magistrate in respect thereof shall be paid by the owners, and shall be recoverable as hereinafter provided.

Houses in a ruinous and dangerous state.

XXXIII. If, in any street, any house, building, or wall or any thing affixed thereon, be deemed by the Magistrate to be in a ruinous state or likely to fall, or in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings or the occupiers thereof, or to passengers, he may cause notice in writing to be given to the owner, if he be known and resident within the limits of his jurisdiction, and may also cause such notice to be put on

the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof (if any), requiring such owner or occupier forthwith to take down, secure, or repair such house, building, wall, or thing affixed thereon, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure the same within three days after such notice, and complete such work with due diligence, the Magistrate may cause all or so much of such house, building, wall, or thing, as he shall think necessary, to be taken down, repaired, or otherwise secured; and all the expenses shall be paid by the owner of the premises, and shall be recoverable from him as hereinafter provided.

Sale of materials of ruinous houses.

XXXIV. If any such house, building, or wall, or any part of the same, be pulled down by virtue of the powers aforesaid, the Magistrate may sell the materials thereof, or of so much of the same as shall be taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore any overplus arising from such sale to the owner of such house, building, or wall on demand. The Magistrate, although he sells such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale, as by this Act are given to him for compelling the payment of the whole of the said expenses.

Penalty on occupier of a house not removing filth.

XXXV. Whoever, being the occupier of a house in or near any street, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth, or any noxious or offensive matter, in or upon the roof of such house, or in any out-house, yard, or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom, and to cleanse and purify the same, shall be liable to a fine not exceeding Fifty Rupees.

Filt hy houses, etc.

XXXVI. Whoever, being the owner or occupier of any house, building, or land, in or near any street, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or overgrown with rank and noisome vegetation, shall be liable to a fine not exceeding Fifty Rupees, and to a fine not exceeding Five Rupees for every day after conviction for such offence during which the offence is continued.

Penalty for keeping sheep-pen, etc., in a filthy state.

XXXVII. Whoever, being the owner or keeper of any Cattle, Sheep, or Pigs, suffers the stall, pen, or place in which they are kept, in or near any street, to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom, shall be liable to a fine not exceeding Twenty Rupees.

Licensing of public necessaries.

XXXVIII. The Magistrate may license such necessaries for public accommodation as he, from time to time, may think proper; and whoever keeps any public necessary without such license, or, having a license for a public necessary, suffers the same to be in a filthy or noxious state, or neglects to employ proper means for cleansing the same, shall be liable to a fine not exceeding Fifty Rupees; and the license may be cancelled.

Penalty for keeping private drain, etc., in improper state.

XXXIX. Whoever, being the owner of any private drain, privy, or cesspool, neglects or refuses, after warning from the Magistrate, to keep the same in a proper state, shall be liable to a fine not exceeding Fifty Rupees.

Fouling water by—bathing,—washing,—throwing rubbish, etc. Allowing drain water to flow into a public tank.

XL. Whoever bathes in any public tank, the water of which shall have been declared by the Magistrate to be appropriated to the domestic use of the inhabitants: or washes, or causes to be washed therein, any horse, dog, or any other animal, or any wool, cloth, or wearing apparel, or any utensils for cooking or other purposes, or leather, or the skin of any animals, or other foul or offensive thing? or throws, puts, or casts, or causes to enter therein, any animal, or any gravel, stone, dust, or rubbish, or any dirt, filth, or other noisome or offensive matter or thing; or causes or suffers to run, drain, or be brought thereunto, the water of any sink, sewer, drain, engine, or boiler, or any other unwholesome or offensive liquid matter or thing belonging to him or flowing from any house or building or from any ground occupied by him; or does any thing whatsoever whereby any such water shall be in an degree fouled or corrupted,—shall be liable to a fine not exceeding Fifty Rupees.

Power to fill up unwholesome tanks on private premises.

XLI. When any tank or other excavation containing waste or stagnant water, the same being within any private enclosure, appears to the Magistrate to be injurious to health, or to be offensive to the neighbourhood, it shall be lawful for the Magistrate to require, by notice in writing, the owner of the premises to cleanse or fill up such tank or excavation; and if he do not begin to cleanse or fill up the same within one week after such notice, and do not complete such work with due diligence, the Magistrate, his officers and workmen, may enter into the said premises and do all necessary acts for the purpose aforesaid as he shall think fit: and the expense incurred thereby shall be paid by the owner of such premises, and shall be recoverable as hereinafter provided.

Power to drain off and cleanse stagnant pools in open places.

XLII. The Magistrate may, from time to time as he shall see fit, drain off into any sewers, and cleanse and fill up, or otherwise abate, any stagnant pool, ditch, tank, pond, or other receptacle of water (the same not being within any private enclosure), which shall appear to him to be useless or unnecessary, or likely to prove injurious to the health of the inhabitants, whether the same be the private property of any person or otherwise.

Penalty for not lighting deposits of building materials or excavations.

XLIII. No person intending to build, or take down, alter, or repair any building, shall deposit any building materials, or make a hole in any street, without the permission of the Magistrate; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure, and shall cause the same to be sufficiently lighted during the night; and whoever deposits materials or makes a hole without such permission, or fails to fence or enclose and light such materials or hole, or does not remove such materials or fill up such hole when the permission has been withdrawn, shall be liable to a fine not exceeding Fifty Rupees, and a further fine not exceeding Fifty Rupees for every day while the offence is continued after twenty-four hours' notice from the Magistrate.

Places dangerous to passengers to be repaired or enclosed.

XLIV. If any building, tank, well, or hole, or other place be, for want of sufficient repair, protection, or enclosure, dangerous to passengers, the Magistrate shall cause the same to be repaired, protected, or enclosed, so as to prevent danger therefrom; and the expenses of such repair, protection, or enclosure, shall be paid by the owner of the property so repaired, protected, or enclosed, and shall be recoverable as hereinafter provided.

Penalty for establishing a slaughter-house without license, after passing of Act.

XLV. No place, which is not used as a slaughter-house at the time of the passing of this Act; shall be so used without a license in writing from the Magistrate; and whoever uses as a slaughter-house any place not so used at the time of the passing of this Act, without such license, shall be liable to a fine not exceeding One Hundred Rupees, and a fine not exceeding Fifty Rupees for every day after the conviction for such offence during which the said offence is continued.

Penalty for keeping slaughter-house in improper state.

XLVI. Every owner or occupier of any slaughter-house, or of any market or shop for the sale of butcher's meat, fish, or vegetables, shall keep the same in a cleanly and proper state, and shall admit at all reasonable hours any person authorized by the Magistrate to enter and inspect the same; and the owner or occupier of any such slaughter-house, market, or shop, which shall not be kept in a cleanly and proper state, shall be liable for every default to a fine not exceeding Twenty Rupees.

Penalty for establishing offensive and dangerous trades within certain limits.

XLVII. Within the limits which shall be prescribed for the purposes of this Section by the Lieutenant-Governor of Bengal, no place shall be newly used, except under license from the Magistrate, for any of the following purposes, namely, for melting tallow—or for boiling offal or blood—or as a soap-house—oil-boiling house—dyeing house—tannery—brick, pottery, or lime kiln—sago manufactory—or other manufactory or place of business from which offensive or unwholesome smells arise—or as a yard or depôt for hay, straw, wood, or coal; and whoever, without a license, uses any such place for such purpose, shall be liable to a fine not exceeding Two Hundred Rupees, and a fine not exceeding Fifty Rupees for every day after the conviction for such offence during which the said offence is continued.

No burial or burning place henceforth to be constructed without leave of Magistrate.

XLVIII. No burial or burning ground, whether public or private, shall be made or formed after the passing of this Act, otherwise than by or under the authority of the Lieutenant-Governor of Bengal, without a license from the Magistrate; and whoever shall bury or burn, or cause, permit, or suffer to be buried or burned, any corpse in any burial or burning ground, made or formed without such license, shall be liable to a fine not exceeding two hundred Rupees.

Magistrate may order certain burial or burning places to be closed. Penalty for burying or burning in such places.

XLIX. If, upon the evidence of competent persons, it shall appear to the Magistrate that any burial or burning ground is in such a state as to be dangerous to the health of persons living in the neighbourhood thereof, and also that a convenient place for interment or burning, as the case may be, exists within a convenient distance and is available, the Magistrate, with the sanction of the Lieutenant-Governor of Bengal previously obtained, may, by notification to be affixed on some conspicuous part of the ground, appoint a time, not being less than two months, for the closing of such burial or burning ground; and whoever after the time so appointed buries or burns, or causes or permits to be buried or burned any corpse therein, shall be liable to a fine not exceeding One Hundred Rupees.

Stray dogs.

L. It shall be lawful for the Magistrate, by order in writing to be affixed at the principal Police Stations and also to be published in some public newspaper, to appoint from time to time certain periods within which any dogs, found straying

in the streets or beyond the enclosures of the houses of the owners of such dogs, may be destroyed.

Police Officer may arrest without warrant on view of offence.

LI. Any Police Officer may arrest without a warrant any person committing in his view any offence against this Act, if the name and address of such person be unknown to him.

Police Officer may take into custody, without warrant, persons charged with aggravated assault recently committed.

LII. Any Police Officer may take into custody, without a warrant, any person who is charged with committing an aggravated assault, in every case in which he shall have good reason to believe that such assault has been committed, although not in his view, and that, by reason of the recent commission of the offence, a warrant could not have been obtained for the apprehension of the offender.

Persons taken into custody by a Police Officer without warrant may be detained in Police Office, until brought before a Magistrate, or bailed,

LIII. Every person taken into custody without a warrant by a Police Officer under this Act shall be taken to the nearest Police Office, in order that such person may be detained until he can be brought before the Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before the Magistrate. Any person so detained, and not entering into recognizances, shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody.

Procedure on information or complaint laid before the Magistrate of an offence against this Act.

LIV. Upon any information or complaint laid before the Magistrate of any offence committed against this Act, the Magistrate may summon the person charged to appear at a time to be mentioned in the summons; or, if he see sufficient cause for so doing, may issue a warrant for his apprehension. The provisions of the general Regulations of the Bengal Code and Acts of the Government of India for the time being in force, relative to the issue and service of summonses and warrants, to the summons, attendance, and examination of witnesses, and generally to the trial of cases, to the recovery of fines and penalties, and to appeals against orders and sentences passed by a Magistrate, shall be applicable to all cases under this Act. Provided that, in all cases of offences punishable with fine only, if after due service of summons the person charged shall not appear in pursuance thereof, the Magistrate, at his discretion, may hear and determine the case in his absence. Provided also, that no appeal shall lie from any order of a Magistrate, passed with the sanction of the Lieutenant-Governor of Bengal, under Section XLIX of this Act.

Recovery of costs or expenses.

LV. In all cases where any costs or expenses are by this Act directed to be paid, the amount of the same shall be ascertained and determined by the Magistrate; and the Magistrate may, for that purpose, summon the parties, and examine them and the witnesses on their behalf; and such amount, together with the costs of the enquiry, shall be recoverable in the same manner as fines may be recovered.

Jurisdiction.

LVI. Any Joint Magistrate or Deputy Magistrate duly authorized to exercise the powers of a Magistrate, and any Assistant vested with special powers, may, in cases referred to him by the Magistrate, exercise all the powers vested in a Magistrate by this Act.

Application of fines.

LVII. All fines imposed and levied under this Act shall be applied in aid of any fund applicable to Police and Conservancy purposes in the said Suburbs or Station; and all costs and expences, which the Magistrate is hereby authorized to incur, shall be paid from and repaid to such fund; or, if there be no such fund, all such fines as aforesaid shall be applied by the Magistrate to the cleansing or otherwise improving of the said Suburbs or Station.

Act to supersede the provisions of Act XXI of 1841.

LVIII. With respect to all matters expressly provided for by this Act, and within the limits subject to the same, the provisions of this Act shall be held to supersede the provisions of Act XXI. of 1841.

Interpretation.

LIX. In the construction of this Act, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; words importing the masculine gender shall include females.

SCHEDULE

*Of Places included in * * * Station of Howrah.*

STATION OF HOWRAH.

Howrah, (including)
Punchanuntolla.
Jolapara.
Chandmarry (with Tandal) Bagan).
North Bettra.
South Bettra.
Ichapoor.
Saunpoor.
Gholadanga.
Ramkistopore.
Khoorut (with Kasondia).

Chuckerbair.
Santragatchee.
Sathghurra.
Godar Hât with Kinkur Chatterjea's Hât).
Battore.
Seebpore with Baje Seebpore. Majairhat, Bhurpara, Battaitolla, Sreehurrynowpara,
Bishop's College, and Company's Botanical Garden).
Puddopookhur.
South Baxara.
North Baxara.

Sulkeah including,
Bandaghat (with Hurrogunge and Banerjeaparah).
Ghoosery (with Bhat Bagan).
Malipanchghura.
Barrackpore,
Belloore.
Nukshah.
Chukpara.
Nellooah.
Belgatchia with Paikan Belgatchia).
Bamungutchee.
Chowrasta (with Dhurmtolla, Goghatta, and Baboodanga).
Golabarry (with Pheelkana).

ACT No. XXX. OF 1857

1. Port-due chargeable on sea-going vessels of twenty tons and upwards. entering the Port.
2. No Port-due on vessels compelled by stress of weather to re-enter the Port.
3. Port-due on Dhoonies and Country vessels.
4. Vessels entering the Port in ballast.
5. Tug Steamers and River Steamers.
6. Fees for certain services.
7. Commencement of Act. Rates of Port-dues and Fees to be published. No other Port-dues or Fees to be levied.
8. Act to be read as part of Act XXII. of 1855.

An Act for the levy of Port-dues and Fees in the Port of Calcutta.

WHEREAS it is necessary to fix the amount of the Port-dues and Fees to be hereafter levied and taken in the Port of Calcutta in accordance with the provisions of Act XXII. of 1855; It is enacted as follows :—

Port-dues chargeable on sea-going vessels of twenty tons and upwards, entering the Port.

I. A Port-due, at a rate not exceeding the rate of four annas for every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of twenty tons and upwards, which shall enter the said Port.

No Port-due on vessels compelled by stress of weather to re-enter the Port.

II. Provided that no such due shall be chargeable in respect of any vessel which, having left the Port, is compelled to re-enter it by stress of weather, or in consequence of having sustained any damage.

Port-due on Dhoonies and Country vessels.

III. Provided also, that the Port-due chargeable in respect of Dhoonies and country vessels employed in the coasting trade shall be at a rate equal to one-half the rate chargeable in respect of other vessels; and such shall not be chargeable oftener than once in sixty days in respect of the same vessels.

Vessels entering the in ballast.

IV. Vessels entering the Port in ballast shall be charged with three-fourths of the port-due which would otherwise be chargeable.

Tug Steamers and River Steamers.

V. Tug Steamers and River Steamers belonging to the said Port shall be liable to the Port-due specified in Section I of this Act; and the said due shall be chargeable in respect of every such Steamer once between the 1st day of January and the 30th day of June, and once between the 1st day of July and the 31st day of December in each year. The provisions of Section XLVI, Act XXII. of 1855, shall not be applicable to such Steamers.

Fees for certain services.

VI Within the said Port, fees may be charged for the following services at rates not exceeding those hereinafter specified, namely.

Hauling to or from chain moorings, each operation	Rs.	16
Hauling to or from swinging moorings, each operation	"	10
Re-mooring	"	16
Hauling in or out of dock, each operation..	"	30
Removing from one part of the Port to another	"	25
Removing from one mooring to another at the request of the agent or master	"	50

Hooking... ... ... „ 16
Measuring ... ... „ 30

VII. * * * No Port-due or Fee shall be levied at the said Port except under the authority of Act XXII. of 1855 and of this Act.

VIII. This Act shall be read with and taken as a part of Act XXII. of 1855.

ACT NO. XXXV OF 1857.*

1. Port-dues on sea-going vessels of ten tons and upwards entering Port.
2. Rate of Port-due on vessels compelled by stress of weather to enter Port.
3. No Port-due on vessels compelled by stress of weather to re-enter Port.
4. No vessel to pay Port-due at same Port, oftener than once in sixty days.
5. Commencement of Act. Rates of Port-dues to be published. No Port-dues to be levied except under Act.
6. Act to be read as part of Act XXII. of 1855.

An Act for the levy of port-dues in the ports of Moulmein, Rangoon, Kyouk Phyoo, Akyab, and Chittagong.

WHEREAS it is necessary to fix the amount of the Port-dues to be hereafter levied and taken in the Ports of Moulmein, Rangoon, Kyouk Phyoo, Akyab, and Chittagong in accordance with the provisions of Act XXII. of 1855; It is enacted as follows:—

Port-dues on sea-going vessels of ten tons and upwards entering Port.

I. Port-dues, at rates not exceeding the rates contained in the schedule to this Act, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards which shall enter any of the said Ports.

Rate of Port-due on vessels compelled by stress of weather to enter Port.

II. When any vessel enters any of the said Ports being driven in by stress of weather, or in consequence of having sustained any damage, or for any other reason, but does not, discharge or take in any cargo or passenger therein (with the exception of such un-shipment and re-shipment as may be necessary for the purpose of repair)—the Port-due chargeable in respect of such vessel shall be at a rate equal to one-half the rate chargeable in respect of other vessels.

No Port-due on vessels compelled by stress of weather to re-enter Port.

III Provided that, when any vessel having left any of the said Ports is compelled to re-enter it by stress of weather, or in consequence of having sustained any damage, no Port-due shall be chargeable in respect of such vessel.

No vessel to pay Port-due at same Port oftener than once in sixty days.

IV. No vessel shall be required to pay at the same Port any Port-due chargeable under this Act oftener than once in sixty days.

Commencement of Act. Rates of Port dues to be publishe- No Port-dues to be levied except under Act.

V. * * * no Port-due shall be levied at any of the said Ports, except under the authority of Act XXII. of *1855* and of this Act.

Act to be read as part of Act XXII of 1855.

VI. This Act shall be read with and taken as a part of Act XXII. of 1855.

SCHEDULE.

Port.	*Maximum Rate.*		
Moulmein	4 annas for	every ton of	burden.
Rangoon	6 annas	ditto	ditto.
Kyouk Phyoo	4 annas	ditto	ditto.
Akyab	4 annas	ditto	ditto.
Chittagong	4½ annas	ditto	ditto.

* Section I Act XIII. 1867 to be read as part of this Act.

ACT. NO. II. OF 1858.

1. Port-due on sea-going vessels of three hundred maunds burden and upwards, entering Port.
2. No Port-due on vessels compelled by stress of weather to put back.
3. Port-dues may be compounded for.
4. The Port-dues of the several Ports shall form a common Fund.
5. Commencement of Act.
6. Rates of Port-dues to be published. No other Port-due to be levied.
7. Act to be read as part of Act XXII. of 1855.

An Act for the levy of Port-dues in certain Ports in the Province of Cuttack.

WHEREAS it is necessary to fix the amount of the Port-dues to be hereafter levied and taken, in accordance with the provisions of Act XXII. of 1855, in the several Ports named in the Schedule to this Act, and in any other Port situate between the North bank of the river Soobunreekha and the South bank of the river Dhamrah in the Province of Cuttack, which may hereinafter be declared by the Lieutenant-Governor of Bengal to be subject to the provisions of Act XXII. of 1855 and of the Act; It is enacted as follows:—

Port-due on sea-going vessels of three hundred maunds burden and upwards, entering Port.

I. A Port-due, at a rate not exceeding the rate of six annas for every one hundred maunds of burden, shall be chargeable in respect of every sea-going vessel of the burden of three hundred maunds and upwards, which shall enter any of the said Ports.

No Port due on vessels compelled by stress of weather to put back.

II. Provided that no such due shall be chargeable in respect of any vessel which, having left any of the said Ports, is compelled to re-enter such Ports, or to enter any other of the said Ports, by stress of weather, or in consequence of having sustained any damage.

Port-dues may be compounded for.

III. The owner or agent of any vessel belonging to any of the said Ports may compound for the dues chargeable in such Port or in any other of the said Ports, in respect of such vessel, by an annual payment equal to the amount of three times the rate fixed under Section I of this Act.

The Port dues of the several Ports shall form a common Fund.

IV. For the purposes of Section XLIV, Act XXII of 1855, the said several Ports shall be regarded as constituting a single Port. All sums received on account of Port-dues at any of the said Ports shall form a common Fund which shall be called the Balasore Port Fund, and shall be available for the payment of all charges incurred on account of any of the said Ports.

V. Repealed by Act XIV. of 1870.

Rates of Port-dues to be published. No other Port-due to be levied.

VI. * * * no Port-due shall be levied at any of the said Ports, except under the authority of Act XXII of 1855, and of this Act.

Act to be read as part of Act XXII of 1855.

VII. This Act shall be read with and taken as a part of Act XXII of 1855.

SCHEDULE.

Ports,

Balasore.	Sartha.
Chooramun.	Soobunreekha.
Lychunpore.	Dhamrah.
Chanooa.	

ACT NO. XII. OF 1858.*

1. Expense of making roads to be defrayed by inhabitants.
2. A tax to be imposed on carriages, horses, &c.

* This Act is to have no effect in places to which Act III. 1864 of the Bengal Council is extended.

3. Exemptions.
4. Lieutenant-Governor may appoint Collector of tax.
5. Ownership for any number of days in a quarter constitutes liability to the tax for a whole quarter.
6. Exemption of carriages under repair.
7. Collector may compound with livery stable-keepers.
8. Carriages and horses let for hire to residents in the suburbs liable to the tax.
9. Registry and numbering of carriages for hire.
10. Penalty for not registering.
11. List of person liable to tax to be prepared,
12. Returns may be required for purpose of making list.
13. Power to summon persons liable to tax.
14. Appeal against assessment may be made to Magistrate. Proviso.
15. Magistrate's decision final.
16. Bill to be presented.
17. Notice of demand.
18. Inventory and notice of sale.
19. Sale. Fees.
20. Collector may sue instead, or on failure of, distress.
21. Estimate of probable expense of making and repairing roads, to be prepared annually, and published. If estimate of expense exceed estimated produce of carriage and horse-tax, excess how to be levied. Proviso.
22. Collections and fines to be paid to Roads Fund. Appropriation of Fund. No payment to be made out of the fund for the repair of certain roads.
23. Statement of expenses incurred and of receipts and disbursements of Fund to be published annually.

An Act for raising funds for making and repairing roads in the Suburbs of Calcutta and the Station of Howrah.

WHEREAS considerable sums are expended annually by Government for making and repairing roads in the suburbs of Calcutta and the station of Howrah: and whereas it is just and expedient that the expenses, or a reasonable proportion thereof, should be defrayed by the inhabitants of the said suburbs and station in the same manner as the expense of making and repairing roads in the town of Calcutta is defrayed by the inhabitants of the said Town: and whereas a tax has been imposed upon carriages and horses kept within the said Town; and it is expedient that a similar tax should be imposed upon carriages and horses kept within the said suburbs and station: It is enacted as follows:—

Expense of making roads to be defrayed by inhabitants.

I. The sums required for making and repairing roads within the limits of the said suburbs and station, except as hereinafter otherwise provided, shall be contributed by the inhabitants of the said suburbs and station, and shall be recovered in the manner hereinafter provided.

A tax to be imposed on carriages, horses etc.

II. A tax shall be imposed upon all carriages, horses, ponies, and mules kept within the limits of the said suburbs and station, as those limits are defined in Act XXI of 1857, at the rates specified in the annexed Schedule; and shall be payable quarterly by the owners or persons having charge of the same.

Exemptions.

III. Provided that the carriages and animals hereinafter mentioned shall be exempt from the tax, namely,

Gun carriages, ordnance carts and waggons.

Cavalry horses of mounted Police.

Horses belonging to Officers doing regimental duty at the Presidency or in the said suburbs or station, at the rate of one horse for each Officer.

Carriages and animals kept for sale and not used for any other purpose, if kept by *bonâ-fide* dealers in such carriages or animals.

Lieutenant-Governor may appoint Collector of tax.

IV. The Lieutenant-Governor of Bengal may appoint such person as he shall deem fit to be Collector of the carriage and horse-tax in the said suburbs and in the said station.

Ownership for any number of days in a quarter constitutes liability to the tax for a whole quarter.

V. Every person who may have owned or had charge of any carriage or animal kept within the said suburbs or station for any number of days in any quarter, shall be liable to the whole tax for that quarter.

Exemption of carriages under repair.

VI. If a carriage shall have been under repair at a carriage-maker's for the whole period contained in any quarter, no tax shall be leviable in respect of such carriage for that quarter.

Collector may compound with livery stable-keepers.

VII. The Collector, at his discretion, may compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages

and horses for hire, for a certain sum to be paid for the carriages and horses so kept by such persons, in lieu of the rates specified in the Schedule.

Carriages and horses let for hire to residents in the suburbs liable to the tax.

VIII. Carriages and horses, let out for hire and kept for the time being in premises situated within the said suburbs or station, although owned by livery stable-keepers or others not residing within the limits of the said suburbs or station, shall be subject to the tax; and the sums to be charged for such carriages and horses shall be recoverable from the persons in whose premises they are for the time being kept.

Registry and numbering of carriages for hire.

IX. Every carriage of the description rated in the Schedule at one Rupee and eight annas, kept within the said suburbs or station and let out for hire, shall be registered in the Office of the Collector, and shall bear, in such manner as the Collector shall direct, the number of such registration. The registration shall be made and the number assigned annually upon such day in each year as the Collector shall appoint. Any person becoming possessed, within the year, of any such carriage which has not been registered, may obtain registration on application to the Collector at his office. When any registered carriage is transferred within the year, it shall be registered anew in the name of the person to whom it has been transferred. A fee of four annas shall be paid for each registration.

Penalty for not registering.

X. Whoever keeps any such carriage, required to be registered by the provisions of the last preceding Section, without being so registered, shall, on conviction before a Magistrate, be liable to a fine not exceeding Ten Rupees, and the Collector or any officer duly authorized by him may seize or cause to be seized any such carriage (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods) together with the horses or other animals drawing the same, and may deliver them over to the Police; and all Police Officers are hereby required, on the application of the Collector or his officer as aforesaid, to seize and detain the same. If the carriage as aforesaid be not claimed, or if the fine be not paid within ten days, such carriage together with the animals seized with it, may be sold by auction by order of the Magistrate, and the proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale, and the surplus (if any), if not claimed by the owner within a further period of twenty days, shall be paid to the Collector.

List of persons liable to tax to be prepared.

XI. The Collector shall from time to time cause to be prepared and entered in distinct columns in a book to be kept at his office, and to be open to the inspection of any person interested therein, a list of the persons liable to the payment of the tax, a description of the carriages and animals in respect of which they are liable, and the amount of the tax assessed thereon.

Returns may be required for purpose of making list.

XII. In order to enable the Collector to make such list, the Collector or any officer authorized by him may send to all persons supposed to be liable to the payment of the tax a Schedule, to be filled up with such information respecting the carriages and animals kept by them as the Collector may judge necessary for the assessment of the tax. The Schedule shall be filled up in writing, and signed and dated, and returned to the office of the Collector by every person to whom it is sent, whether or not liable to the payment of the tax; and whoever refuses, neglects, or omits duly to fill up and return such Schedule within one week from the receipt thereof, or knowingly gives therein any incorrect or false return, shall be liable, on conviction before a Magistrate, to a penalty not exceeding Two Hundred Rupees.

Power to summon persons liable to tax.

XIII. The Magistrate on the report of the Collector may, if he think proper, summon any person supposed to be liable to the payment of the tax, or any servant of such person, to appear before the Collector: and the Collector may examine such person or his servant as to the number and description of the carriages and horses in respect of which such person is liable to be assessed. If the person summoned shall, without lawful excuse, fail to appear in pursuance of the summons, or shall refuse to answer any lawful question of the Collector, or knowingly give an incorrect answer, he shall be liable, on conviction before a Magistrate, to a penalty not exceeding Two Hundred Rupees.

Appeal against assessment may be made to Magistrate. Proviso.

XIV. Any person who may dispute his liability for any assessment made under the foregoing provisions of this Act or the amount of any such assessment, may appeal to the Magistrate. Provided, that such appeal shall be commenced within ten days after the receipt by such person of a bill for the sum claimed from him in respect of such assessment.

Magistrate's decision final.

XV. The decision of the Magistrate upon every such appeal shall be final and conclusive; and no person shall be entitled to contest any assessment made under the foregoing provisions of this Act, in any other manner than by appeal to the Magistrate as hereinbefore provided.

XVI. When any sum is due on account of the said tax, the Collector shall cause to be presented to the person liable to the payment thereof a bill for the amount, which shall also contain a statement of the period and a description of the carriages and animals for which the charge is made, together with a notice of the time within which an appeal may be preferred.

Bill to be presented.

XVII. If the bill is not paid by the person liable to pay the same within five days from the presentation thereof, the Collector may cause to be served upon such person a notice of demand in the form (A) contained in the Schedule to this Act, or to the like effect; and if such person shall not, within five days from the service of such notice of demand, pay the sum due or show sufficient cause for non-payment of the same to the satisfaction of the Collector, and if no appeal shall have been preferred, such sum with all costs may be levied by distress and sale of the goods and chattels of the defaulter under a warrant in the form (B) in the Schedule, or to the like effect, to be issued for that purpose by the Collector.

Notice of demand.

XVIII. The Officer charged with the execution of the warrant of distress shall make an inventory of the goods and chattels seized under any such warrant, and shall at the same time give a notice in writing in the form (C) contained in the Schedule annexed to this Act, to the person in possession thereof at the time of the seizure, that the said goods and chattels will be sold as therein mentioned.

Inventory and notice of sale.

XIX. If the arrear is not paid with costs, or the warrant is not discharged or suspended by the Collector, the goods and chattels seized shall be sold under the orders of the Collector, who shall apply the proceeds or such part thereof as may be necessary in discharge of the said arrears and costs; and the surplus (if any) shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure. The fees payable upon distraints under this act shall be such as are set forth in the Table of Fees (D) in the said Schedule.

Sale. Fees.

XX. Instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or part of any sum due in respect of the tax, the Collector may sue the person liable for the same in any Court of competent jurisdiction.

Collector may sue instead, or on failure of, distress.

XXI. Previously to the first day of May of each year, an estimate shall be prepared of the amount required during the year for the purpose of making and repairing roads in the said suburbs and in the said station respectively; and such estimate, when sanctioned by the Lieutenant-Governor of Bengal, shall be published in the Official *Gazette* for general information. The Governor General of India in Council, on the report of the Lieutenant-Governor, shall determine whether any, and (if any) what proportion of the said estimate shall be paid out of the public Revenues. If, after deducting such proportion (if any), the said estimate shall exceed the sum which the carriage and horse-tax is estimated to produce, with the addition of such further sums as may be assigned by the Lieutenant-Governor for the said purpose out of the Ferry Fund, or any other public fund, such excess shall be added to the amount of the assessment or rate to be levied in the said suburbs and in the said station under Act XX of 1856, and such additional assessment or rate shall be made and recovered according to the provisions of that Act. Provided that the amount levied by an assessment or rate under this Section shall not in any case exceed a sum equal to one-half of the amount levied under the said Act XX of 1856 for the purposes of that Act.

Estimate of probable expense of making and repairing roads, to be prepared annually, and published. If estimate of expense exceed estimated produce of carriage and horse-tax, excess how to be levied. Proviso.

XXII. The proceeds of any assessment or rate made as aforesaid shall be kept distinct from the proceeds of the assessment or rate made for the purposes of the said Act XX of 1856; and such proceeds, together with all sums received by the Collector of the carriage and horse-tax, and all sums assigned by Government as above provided, and all fines and penalties levied under this Act, shall form a Fund which shall be called in the suburbs of Calcutta "The Suburban Roads Fund," and in the station of Howrah "The Station Roads Fund." All expenses incurred for the purpose of this Act shall be defrayed from the said Fund, and the residue shall be applied exclusively to making, repairing, and improving roads within the limits of the said suburbs and station. Provided that no payment shall be made from the said Fund for the repair of such roads or parts of roads as are hereinafter described, namely :—

Collections and fines to be paid to Roads Fund. Appropriation of Fund. No payment to be made out of the fund for the repair of certain roads.

In the said Suburbs———

The Barrackpore road with the Lock-gate road.

The road from the Cossipore gun-foundry to Dum-Dum.

The Belgatchya or Dum-Dum road.

The Behalea or Diamond Harbour road, southward from the cross road to Allipore and Tollygunge.

The Budge-Budge road.

The Gurreahhath or Culpee road from the end of Old Ballygunge road.

The Canal roads, and the roads leading from the Canals and Salt-water lake into the Town, namely, the Balliaghatta, Narkooldangah, Ooltadunga, Goorce-

parah, South Sealdah, Khooleah, Nimtollah, Jonmajoy Baboo's, Khopagunge, and Khodghatta roads, and the Soorah road between the Balliaghatta and Narkooldangah roads.

In the said Station—

The Hoogly road northward from the point where it is crossed by the Old Benares road.

The Old Benares road westward from the same point. Or for making or maintaining any part of any other main road of communication between the Town of Calcutta and the interior of the country which may hereafter be constructed.

Statement of expenses incurred and of receipts and disbursements of Fund to be published annually.

XXIII. The Lieutenant-Governor of Bengal shall cause statements to be prepared annually of all expenses incurred on account of making, repairing, and improving the roads of the said suburbs and of the said station, and of all sums credited to and disbursed from the Suburban Roads Fund and the Howrah Station Roads Fund; and the said statements shall be published in the Official *Gazette* for general information.

SCHEDULE.

	Rupees per Quarter		
For every 4-wheel carriage on springs, drawn by two horses	4	8	0
For every 4-wheel carriage on springs, drawn by one horse, or pony, or a pair of ponies, under thirteen hands	1	8	0
For every 4-wheel carriage without springs	1	8	0
For every 2-wheel carriage on springs	2	4	0
For every 2-wheel carriage without springs, drawn by a horse, pony, or mule	0	12	0
For every horse	2	4	0
For every pony under thirteen hands, or mule	0	12	0

Ponies under eleven hands and children's carriages the wheels of which do not exceed twenty-four inches in diameter, exempt.

A.

NOTICE OF DEMAND.

Take notice that the Collector of the Horse and Carriage-tax for demands from you the sum of due from you for for the months of 185 ; and that, if the sum due is not paid into the said Collector's office at or if sufficient cause for the non-payment of the sum is not shown to the Collector within five days from the service of this notice, a Warrant of Distress will be issued for the recovery of the same with costs.

(Signature of the Collector)

Date——————

B.

DISTRESS WARRANT.

To (here insert the name of the Officer charged with the execution of the warrant.)

Whereas of has not paid or shown sufficient cause for the non-payment of the sum of Rupees due for the taxes mentioned in the margin for the months of 185 , although the said sum has been duly demanded in writing from the said and five days have elapsed since the service of the notice of demand ; This is to command you to distrain the goods and chattels of the said to the amount of the said sum of Rupees and such further sum as may be sufficient to defray the charges of taking, keeping, and selling such distress ; and if, within five days next after such distress, the said sum shall not be paid, together with such further sum as may be sufficient to defray the charges of taking and keeping such distress, to sell the said goods and chattels ; and having paid and deducted out of the proceeds of the sale the said sum of Rupees and the charges of taking, keeping, and selling such distress, to return the surplus (if any) on demand to the person whom you shall find in possession of the said goods and chattels. If sufficient distress cannot be found of the goods and chattels of the said , you are to certify the same to me together with this Warrant.

C (Signature of the Collector.)

FORM OF INVENTORY AND NOTICE.

(State particulars of goods seized.)

Take notice that I have this day seized the goods and chattels specified in the above inventory for the sum of Rupees due for the taxes mentioned in the margin for the months of 185 ; and that unless you pay into

the office of the Collector of the horse an carriage-tax for the amount due together with the costs of this distress within five days from the day of the date of this notice, the goods and chattels will be sold.

(Signature of the Collector.)

Date————————

D.

Table of Fees payable upon distraints under this Act.

Sum distrained for.				Fee.	
				Rs.	As.
Under	1 Rupee	... ...		0	4
	1 and under 3	Rupees		0	8
	3 „ 5	„		1	0
	5 „ 10	„		1	8
	10 „ 15	„		2	0
	20 „ 25	„		3	0
	25 „ 30	„		3	8
	30 „ 35	„		4	0
	35 „ 40	„		4	8
	40 „ 45	„		5	0
	45 „ 50	„		5	8
	50 „ 60	„		6	0
	60 „ 80	.. ..		7	8
	80 „ 100	„		9	0
Above	„ 100	„		10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

ACT No. XXXI. OF 1858.

1. *In what case the revenue assessed upon alluvial land may be added to the jumma of the original estate. In what cases there shall be a separate settlement.*
2. *Rights of under-tenants in alluvial lands.*
3. *Separate settlements of alluvial lands heretofore made. Proviso.*

An Act to make further provisions for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal.

WHEREAS, for the removal of doubts respecting the course proper to be followed in the settlement of land added by alluvial accession to estates paying revenue to Government, it is expedient to lay down certain rules to be observed in the settlement of such land; It is enacted as follows :—

In what case the revenue assessed upon alluvial land may be added to the jumma of the original estate. In what cases there shall be a separate settlement.

I. When land added by alluvial accession to an estate paying revenue to Government becomes liable to assessment, if it be so agreed on between the Revenue authorities and the proprietor or proprietors, the revenue assessed upon the alluvial land may be added to the jumma of the original estate; and in such case a new engagement shall be executed for the payment of the aggregate amount, and that amount shall be substituted in the Collector's rent-roll for the former jumma of the original estate. If the proprietor or proprietors object to such an arrangement, or if the Revenue authorities are of opinion that a settlement of the alluvial land cannot properly be made for the same term as the existing settlement of the original estate, the alluvial land shall be assessed and settled as a separate estate with a separate jumma, and shall thenceforward be regarded and treated

as in all respects separate from and independent of the original estate, whether the separate settlement be made with the proprietor or proprietors, or the land be let in farm in consequence of the refusal of the proprietor or proprietors to accept the terms of settlement. The separate settlement may be permanent, if the settlement of the orignal estate is permanent.

Rights of under-tenants in alluvial lands.

II. Nothing contained in the preceding Section shall affect the rights of any under-tenant in any alluvial land under the provisions of Clause I Section IV Regulation XI. 1825. It shall be the duty of all Officers making settlements of such land, whether the land be settled separately or incorporated with the original estate, to ascertain and record all such rights according to the rules prescribed in Regulation VII. 1822 ; and to determine whether any and what additional rent shall be payable in respect of the alluvial land by the person or persons entitled to any undertenure in the original estate. The provisions of the said Regulation, so far as the same may be applicable, are hereby declared to extend to all settlements made under this Act.

Separate settlement of alluvial land heretofore made. Proviso.

III. Every separate settlement of alluvial land heretofore made shall be as good and effectual for the purposes specified in Section I, as the same would have been if made subsequently to the passing of this Act. Provided, that nothing contained in this Act shall be held to affect the rights which any person may have acquired, under a judicial decision or otherwise, before the passing of this Act

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ACT No. XXXIV. OF 1858.

1. Court may order enquiry as to persons alleged to be insane. Order for enquiry may also direct concerning property, &c., of alleged Lunatic.

2. Application by whom to be made.

3. Ordinarily, enquiry to be by the Court. Court may for sufficient cause direct enquiry by a single Judge. Notice of enquiry to be given to Lunatic. Service of Notice. Lunatic may demand enquiry before full Court.

4. Court may, at any time after the application, require attendance of Lunatic for the purpose of being personally examined.

5. And may authorize persons to have access to the Lunatic for the purpose of examination.

6. Rules respecting attendance and examination, where the alleged Lunatic is a woman of rank.

7. Powers of Judge executing the enquiry. Judge to report.

8. Court may in certain cases direct enquiry to be made before any principal Civil Court of original jurisdiction, within whose local jurisdiction the alleged Lunatic may be.

9. If report of Judge or finding of Court appear defective or insufficient in form, it may be amended by the Court directing the enquiry.

10. Court may direct new trial.

11. Costs of enquiry.

12. Finding of Court or report by Judge to be proceeded on, in regard to appointment of Committees, as an inquisition.

13. On appointment of Committee, the Court may give certain powers for management of Lunatic's estate.

14. Master to receive proposals concerning management, sale, &c., of estate without an order of reference.

15. Court to make order upon the report of the Master.

16. Master to determine what relatives to attend any enquiry, at the cost of the estate. Appointment of guardian of infant relative.

17. Court may make order on application concerning any matter connected with the Lunacy.

18. Lunatic's property may be sold for debts, maintenance, &c.

19. Committee to execute conveyances and powers.

20. Court may order performance of contract.

21. Member of partnership becoming Lunatic.

22. Disposal of business premises.

23. Committee may dispose of lease.

24. When and to what extent Court of Wards may assume charge of land belonging to a Lunatic. Proviso. Surplus income of the land, after payment of

Government Revenue, &c., to be disposed of as the Supreme Court shall direct. Provisions of this Section not to affect certain powers given to the Supreme Court by the Act.

25. Stock, transferable in India, belonging to Lunatic, may be ordered to be transferred.

26. Stock belonging to Lunatic, residing out of India, and not within the United Kingdom, may be ordered to be transferred.

27. Court may in certain cases apply property for Lunatic's maintenance without appointing Committee.

28. Like power in case of temporary Lunacy.

29. Proceedings in Lunacy to cease, or to be set aside, if Court after enquiry find that the unsoundness of mind has ceased.

30. Power of Court to make general orders.

31. Powers of Master to be exercised by a Judge or Recorder.

32. Interpretation. "Lunatic." Number. Gender.

An Act to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter.

WHEREAS the several Courts of Judicature established by Royal Charters within the British Territories in India are authorized and empowered by their respective Charters to appoint guardians and keepers of the persons and estates of Lunatics, and to inquire into, hear, and determine questions of alleged Lunacy by inspection of the person, or by such other ways and means by which the truth may best be discovered and known; and whereas, according to the practice of the said Courts, questions of alleged Lunacy are determined by inquisition taken before a jury, and it is expedient to lessen the cost and to alter the mode of enquiry into such questions, and also to empower the said Courts to make provision for the due management of the estates of Lunatics; It is enacted as follows:—

Court may order enquiry as to persons alleged to be insane. Order for enquiry may also direct concerning property, etc. of alleged Lunatic.

I. It shall be lawful for any of the said Courts of Judicature, on such application as is hereinafter mentioned, to make an order directing an enquiry whether any person subject to the jurisdiction of the Court, who is alleged to be Lunatic, is or is not of unsound mind and incapable of managing himself and his affairs. The order may also contain directions for other enquiries concerning the nature of the property belonging to the alleged Lunatic, the persons who are his relatives or next of kin, the time during which he has been of unsound mind, or such other matters as to the Court shall seem proper.

Application by whom to be made.

II. Application for such enquiry may be made by any persons related by blood or marriage to the alleged Lunatic, or by the Advocate General.

Ordinarily, enquiry to be by the Court. Court may for sufficient cause direct enquiry by a single Judge. Notice of enquiry to be given to Lunatic. Service of Notice. Lunatic may demand enquiry before full Court.

III. The order made by the Court upon such application shall direct the enquiry to be by the Court itself. It shall nevertheless be lawful for the Court, if it see sufficient cause for so doing, to direct the enquiry to be executed in Chambers before a single Judge of the Court. Reasonable notice of the time and place appointed for the enquiry shall be given to the alleged Lunatic. If it shall appear that the alleged Lunatic is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper. The Court may also, if it think fit, direct a copy of such notice to be served upon any person related by blood or marriage to the alleged Lunatic. If the inquiry be directed to be executed before a single Judge, it shall be lawful for the alleged Lunatic, at any time before the day fixed for the enquiry, to demand an enquiry before the full Court. In such case the enquiry shall be by the Court, and a further day shall be appointed for making such enquiry; and in such case the Court may direct such further notices (if any) to be given, as it may think requisite.

Court may, at any time after the application, require attendance of Lunatic for the purpose of being personally examined.

IV. The Court may, at any time after the application, require the alleged Lunatic to attend at such convenient time and place, within twenty miles of the place of residence of the said Lunatic, as it may appoint, for the purpose of being personally examined by the Court or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged Lunatic.

And may authorize persons to have access to the Lunatic for the purpose of examination.

V. The Court may likewise, at any time after the application for such enquiry, make an order authorizing any person or persons, to be therein named, to have access to the alleged Lunatic for the purpose of a personal examination.

Rules respecting attendance and examination, where the alleged Lunatic is a woman of rank.

VI. The attendance and examination of the alleged Lunatic under the provisions of the two last preceding Sections shall, if the alleged Lunatic be a woman who, according to the custom and manners of the country, ought not to be compelled to appear in public, be regulated by the rules in force for the examination of such persons in other cases.

Powers of Judge executing the enquiry. Judge to report.

VII. If the enquiry is made by a Judge of the Court, the Judge executing the enquiry shall, while so employed, have power (subject to the provisions of the last preceding Section) personally to examine the alleged Lunatic and take such evidence, on oath or otherwise, and call for such information as he may think fit or the said Court may direct, in order to ascertain whether the alleged Lunatic is or is not of unsound mind, and shall have the like powers and authority as are or may be vested by law in a Judge or Master of the said Court for the investigation of matters referred to them by the Court. The Judge shall report to the Court the result of the enquiry.

Court may in certain cases direct enquiry to be made before any principal Civil Court of original jurisdiction, within whose local jurisdiction the alleged Lunatic may be.

VIII. If the alleged Lunatic be not within the local limits of the jurisdiction of the Court, and the enquiry cannot conveniently be made in either of the modes hereinbefore provided, the Court may direct the enquiry to be made before any principal Court of original jurisdiction in Civil cases, within whose local jurisdiction the alleged Lunatic may be; and such last mentioned Court shall accordingly proceed to make such enquiry in the same manner as if the alleged Lunatic were subject to its jurisdiction, and shall certify its finding upon the matters of enquiry to the Court directing the enquiry. The evidence taken upon the enquiry shall be recorded by the Court in the English language in the form of a narrative, and a copy thereof, certified by the Court, shall be transmitted, together with any remarks the Court may think fit to make thereon, to the Court by which the enquiry was directed.

If report of Judge or finding of Court appear defective or insufficient in form, it may be amended by the Court directing the enquiry.

IX. If the report of the Judge, or the finding of a Court under the last preceding Section, appear to the Court directing the enquiry to the defective or insufficient in point of form, it shall be lawful for such last mentioned Court either to amend the same, or to refer it back to the Judge or the Court which made the enquiry, to be amended.

Court may direct new trial.

X. It shall be lawful for the Court, on the application of the person at whose instance the order directing an enquiry was made, or the application of the alleged Lunatic or of any of his relatives authorized by the Court to make the application, to direct a new trial of the matter of enquiry according to the usual course and practice of the Court in directing new trials in Civil cases. If such application be granted in a case tried by single Judge, the order granting the same shall direct the enquiry to be made by the full Court. If the application be granted in a case tried under Section VIII, the Court directing the new trial may give such directions regarding the same as it shall see fit.

Costs of enquiry.

XI. The Court shall make such order as may appear just respecting the costs of any enquiry under this Act, and may include therein such remuneration to Physicians and Surgeons as the Court, having regard to the nature of the enquiry, shall deem reasonable.

Finding of Court or report by Judge to be proceeded on, in regard to appointment of Committees, as an inquisition.

XII. If no new trial be directed, the finding of the Court to which the application for enquiry was made, if the enquiry have been made by such Court, or the report of the Judge, or the finding of the Court to which the enquiry may have been referred under the provisions of Section VIII, as the case may be, shall be of the same force and effect, and be proceeded on in the same manner in regard to the appointment of Committees of the person and estate of the Lunatic, as the inquisition now according to practice taken upon the oath of a jury.

On appointment of Committee, the Court may give certain powers for management, sale, etc. of estate, without an order of reference.

XIII. It shall be lawful for the Court, on the appointment of Committees of the person and estate of a Lunatic, to direct by the order of appointment, or by any subsequent order, that the person to whom the charge of the estate is committed shall have such powers for the management thereof as to the Court shall seem necessary and proper, reference being had to the nature of the property, whether moveable or immoveable, of which the estate may consist. But such powers shall not extend to the sale or charge by way of mortgage of the estate or any part thereof, or to the letting of any immoveable property, unless for a term not exceeding three years.

Master to receive proposals concerning management, sale, etc. of estate, without an order of reference.

XIV. The Master of the Court shall be at liberty, without an order of reference, to receive any proposal and conduct any enquiry respecting the management of the estate of a Lunatic, if such proposal relate to any matter which the Committee of the estate has not been empowered by an order under the last preceding Section to dispose of. The Master may likewise, without reference, receive and enquire into any proposal relating to the sale or charge by way or mortgage of the estate or of any part thereof, or to the letting of any immoveable property for a term exceeding three years.

Court to make order upon the report of Master.

XV. The Master shall report to the Court on the proposal; and the Court shall, subject to the provisions of this Act, make such order upon the report and respecting the costs, as shall, under the circumstances, seem just.

XVI. The Court or the Master shall once in the matter of each Lunacy, and may afterwards from time to time, determine whether any one or more and (if any) how many and which of the relatives or next of kin shall attend before the Master, at the cost of the estate, in any proceeding connected with the management thereof; and, if any such relative or next of kin is an infant, may from time to time appoint a fit person to be his guardian for the purposes of the Lunacy.

Master to determine what relatives to attend at any enquiry, at the cost of of the estate. Appointment of guardian of infant relative.

XVII. The Court may, on application made to it by petition concerning any matter whatsoever connected with the Lunacy, make such order, subject to the provisions of this Act, respecting the application and the costs thereof, and of the consequent proceedings, as shall, under the circumstances, seem just.

Court may make order on application concerning any matter connected with the Lunacy.

XVIII. The Court may, if it appears to be just or for the Lunatic's benefit, order that any property, moveable or immoveable, of the Lunatic, and whether in possession, reversion, remainder, contingency, or expectancy, be sold or charged by way of mortgage or otherwise disposed of, as may seem most expedient for the purpose of raising money to be applied for any of the following purposes :—

Lunatic's property may be sold for debts, maintenance, etc.

1. The payment of the Lunatic's debts, including any debt incurred for his maintenance or otherwise for his benefit.

2. The discharge of any incumbrance on his estate.

3. The payment of or provision for the expenses of his future maintenance and the maintenance of his family, including the expenses of his removal to Europe, when he shall be so removed, and all expenses incidental thereto.

4. The payment of the costs of any enquiry under this Act, and of any costs incurred by order or under the authority of the Court.

XIX. The Committee of the Lunatic's estate shall, in the name and on behalf of the Lunatic, execute all such conveyances and instruments of transfer relative to any sale, mortgage, or other disposition of his estate as the Court shall order. In like manner such Committee shall, under the order of the Court, exercise all powers whatsover vested in a Lunatic, whether the same are vested in him for his own benefit or in the character of trustee or guardian.

Committee to execute conveyances and powers.

XX. Where a person, having contracted to sell or otherwise dispose of his estate or any part thereof, afterwards becomes Lunatic, the Court may, if the contract is such as the Court thinks ought to be performed, direct the Committee of the estate to execute such conveyances and to do such other acts in fulfilment of the contract as it shall think proper.

Court may order performance of contract.

XXI. If a member of a partnership firm be found Lunatic, the Court may, on the application of the other partners, or of any person who appears to the Court to be entitled to require the same, dissolve the partnership; and thereupon, or upon a dissolution by decree of Court or otherwise by due course of law, the Committee of the estate may, in the name and on behalf of the Lunatic, join with the other partners in disposing of the partnership property upon such terms, and shall do all such acts for carrying into effect the dissolution of the partnership, as the Court shall think proper.

Member of partnership becoming Lunatic.

XXII. Where a Lunatic has been engaged in business, the Court may, if it appear to be for the Lunatic's benefit that the business premises should be disposed of, order the Committee of the estate to sell and dispose of the same; and the monies arising from such sale shall be applied in such manner as the Court shall direct.

Disposal of business premises.

XXIII. Where a Lunatic is entitled to a lease or under-lease, and it appears to be for the benefit of his estate that it should be disposed of, the Committee of the estate may, by order of the Court, surrender, assign, or otherwise dispose of the same to such person for such valuable or nominal consideration, and upon such terms as the Court shall think fit.

Committee may dispose of lease.

XXIV. If a Lunatic is possessed of any landed property situate beyond the local limits of the jurisdiction of the Court, which, by the law in force in the Presidency wherein such land is situated, subjects the proprietor, if disqualified, to the superintendence of the Court of Wards, the said Court of Wards may assume the charge of such landed property and manage the same according to the rules for the time being in force for such management. Provided that, in such case, no further proceedings in respect of the Lunacy shall be taken under any such law, nor shall it be competent to the Court of Wards or to any Collector to appoint a guardian of the person of the said Lunatic or a manager of the estate, except of the landed property which so subjects the proprietor as aforesaid. Provided also, that the surplus of the income of such landed property, after providing for the discharge of the Government Revenue and expenses of management, shall be disposed of from time to time in such manner as the Supreme Court shall direct, and not otherwise. Provided further, that nothing contained in this Section shall affect the powers given to the Supreme Court by Sections XVIII, XIX, and XX, of this Act or (except so far as relates to the management

When and to what extent Court of Wards may assume charge of land belonging to a Lunatic. Proviso. Surplus income of the land, after payment of Government Revenue, etc., to be disposed of as the Supreme Court shall direct. Provisions of this Section not to affect certain powers given to the Supreme Court by the Act.

of the said landed property which so subjects the proprietor as aforesaid) the powers given by any other Section of this Act.

Stock, transferable in India, belonging to Lunatic, may be ordered to be transferred.

XXV. Where any Stock or Government Securities or any Share in a Company (transferable within the said territories, or the dividends of which are payable there) is standing in the name of, or is vested in a Lunatic beneficially entitled thereto, or in a Committee of the estate of a Lunatic, or in a trustee for him, and the Committee dies intestate, or himself becomes Lunatic, or is out of the jurisdiction of the Court, or it is uncertain whether the Committee be living or dead, or he neglect or refuse to transfer the Stock, Securities, or Shares, or to receive and pay the dividends to a new Committee or as he directs, within fourteen days after being required by him to do so, then the Court may order some fit person to make such transfer, or to transfer the same, and to receive and pay over the dividends in such manner as the Court may direct, and such transfer or payment shall be valid and effectual for all purposes.

Stock belonging to Lunatic, residing out of India and not within the United Kingdom, may be ordered to be transferred.

XXVI. Where any such Stock or Government Securities or Share in a Company is standing in the name of, or vested in, any person residing out of the said territories and not in any part of the United Kingdom, the Court, upon being satisfied that such person has been declared of unsound mind, and that his personal estate has been vested in a curator or manager, according to the laws of the place where he is residing, may order some fit person to make such transfer of the Stocks, Securities, or Shares, or of any part thereof, to such curator or manager or otherwise, and also to receive and pay over the dividends and proceeds, as the Court may think fit; and any act done in pursuance of such order shall be valid and effectual for all purposes.

Court may in certain cases apply property for Lunatic's maintenance without appointing Committee.

XXVII. If it appears to the Court, having regard to the situation and condition in life of the Lunatic and his family and the other circumstances of the case, to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner, it may, instead of appointing a Committee of the estate, order that the property, if money, or, if of any other description, the produce thereof, when realized, be paid to such person as the Court may think fit, to be applied for the purpose aforesaid; and all payments so made shall be a good discharge to the person making the same.

Like power in cases of temporary Lunacy.

XXVIII. If it appears to the Court that the unsoundness of mind of a Lunatic is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or for the maintenance of his family, the Court may, in like manner as under the last preceding Section, direct his property or a sufficient part of it to be applied for the purpose aforesaid.

Proceedings in Lunacy to cease, or to be set aside, if Court after enquiry find that the unsoundness of mind has ceased.

XXIX. When any person has been found of unsound mind, and it shall be shown to the Court, either on the application of such person or of any other person acting on his behalf, or on the information of any other person, that there is reason to believe that such unsoundness of mind has ceased, the Court may make an order for enquiry whether such person is, or is not, still of unsound mind and incapable of managing himself and his affairs. The enquiry shall be conducted in the same manner and subject to the same rules as are herein-before prescribed for an enquiry into the unsoundness of mind of an alleged Lunatic; and if it be found that the unsoundness of mind has ceased, the Court shall order all proceedings in the matter of the Lunacy to cease or to be set aside on such terms and conditions as under the circumstances of the case shall appear proper.

Power of Court to make general orders.

XXX. The Court may, from time to time, make such orders, not inconsistent with the provisions of this Act, as shall seem meet for carrying into effect the purposes of this Act, and for regulating the mode of proceeding before the Court, or before a Judge of the Court, or the Master, in matters of Lunacy.

Powers of Master to be exercised by a Judge or Recorder.

XXXI. Every power given by this Act to the Master of any of the said Courts may also be exercised by a Judge of any of the said Courts, and shall in the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca be exercised by the Recorder of the said Court or of any division thereof.

Interpretation. "Lunatic." Number. Gender.

XXXII. Unless the contrary appears from the context, the word "Lunatic," as used in this Act, shall mean any person found by due course of law to be of unsound mind and incapable of managing his affairs. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular. Words importing the masculine gender shall include females.

ACT No. XXXV. OF 1858.

1. Regulations repealed.
2. Civil Court on application may institute enquiry, when a person possessed of property is alleged to be a Lunatic.
3. Application by whom to be made.
4. Notice of enquiry to be given to Lunatic. Service of notice.
5. Court may require attendance of, and may authorize persons to have access to, Lunatic for the purpose of examination.
6. Rules respecting attendance and examination, where the alleged Lunatic is a woman of rank.
7. Appointment of Assessors. Order of Court.
8. Issue of Commission to a subordinate Court. Report of Subordinate Court. Order of Civil Court.
9. Management of Lunatic's estate, if consisting of property subject to Court of Wards. And in other cases. Who may be appointed Manager.
10. Appointment of Guardian by Civil Court.
11. Court may direct Collector to take charge of Lunatic's estate, if consisting of land not subject to Court of Wards. Proceedings of Collector subject to control of superior Revenue Authorities.
12. Remuneration of Managers and Guardians.
13. Duties of Guardian.
14. Powers of Managers.
15. Managers to furnish inventory and annual accounts. Proceeding, if accurancy of inventory or accounts impugned.
16. Manager to pay proceeds of estates into the public Treasury.
17. Relative may sue for an account.
18. Removal of Manager or Guardian by Civil Court. Removal by Collector.
19. Manager refusing to furnish accounts, may be fined by the Court, &c.
20. Court may in certain cases apply property for Lunatic's maintenance without appointing any Manager.
28. Court may institute inquiry to ascertain whether a person has ceased to be of unsound mind. And may order estate to be restored.
22. Orders to be open to appeal.
23. Interpretation. "Lunatic." "Civil Court." Gender.

An Act to make better provision for the care of the Estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature.

WHEREAS it is expedient to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature; and to prescribe general rules by which the state of mind of persons not subject to such jurisdiction, who are alleged to be Lunatic, may be enquired into and ascertained; It is enacted as follows :—

I. Repealed by Act XIV. of 1870.

Civil Court on application may institute enquiry, when a person possessed of property is alleged to be a Lunatic.

II. Whenever any person not subject to the jurisdiction of the Supreme Courts, who is possessed of property, is alleged to be a Lunatic, the Civil Court within whose jurisdiction such person is residing may, upon such application as is hereinafter mentioned, institute an enquiry for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs.

Application by whom to be made.

III. Application for such enquiry may be made by any relative of the alleged Lunatic or by any Public Curator appointed under Act XIX of 1841, or by the Government Pleader, or, if the property of the alleged Lunatic consist in whole or in part of land or any interest in land, by the Collector of the District in which it is situate. If the property or any part thereof be of such a description as by the law in force in any Presidency where such property is situate would subject the proprietor, if disqualified, to the superintendence of the Court of Wards, the application may be made by the Collector on behalf of the Court of Wards.

Notice of enquiry to be given to Lunatic. Service of notice.

IV. When the Civil Court is about to institute any such enquiry as aforesaid, it shall cause notice to be given to the alleged Lunatic of the time and place at which it is proposed to hold the enquiry. If it shall appear that the alleged Lunatic is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper. The Court may also direct a Copy of such notice to be served upon any relative of the alleged Lunatic.

Court may require attendance of, and may authorize persons

V. The Civil Court may require the alleged Lunatic to attend at such convenient time and place as it may appoint for the purpose of being personally examined by the Court, or by any person from whom the Court may desire to have

to have access to, Lunatic for the purpose of examination.

a report of the mental capacity and condition of such alleged Lunatic. The Court may likewise make an order authorizing any person or persons therein named to have access to the alleged Lunatic for the purpose of a personal examination.

Rules respecting attendance and examination, where the alleged Lunatic is a woman of rank.

VI. The attendance and examination of the alleged Lunatic under the provisions of the last preceding Section shall, if the alleged Lunatic be a woman who, according to the manners and customs of the Country, ought not to be compelled to appear in public, be regulated by the rules in force for the examination of such persons in other cases.

Appointment of Assessors. Order of Court.

VII. The Civil Court, if it think fit, may appoint two or more persons to act as Assessors to the Court in the said enquiry. Upon the completion of the enquiry, the Court shall determine whether the alleged Lunatic is or is not of unsound mind, and may make such order as to the payment of the costs of the enquiry by the person upon whose application it was made, or out of the estate of the alleged Lunatic, if he be adjudged to be of unsound mind, or otherwise, as it may think proper.

Issue of Commission to a subordinate Court. Report of Subordinate Court. Order of Civil Court.

VIII. If the alleged Lunatic reside at a distance of more than fifty miles from the place where the Civil Court to which the application shall have been made is held, the said Court may issue a Commission to any subordinate Court, to make the enquiry, and thereupon the said subordinate Court shall conduct the enquiry in the manner hereinbefore provided. On the completion of the enquiry the subordinate Court shall report its proceedings with the opinions of the Assessors, if Assessors have been appointed, and its own opinion on the case; and thereupon the Civil Court shall make such order in the case as it may think proper.

Management of Lunatic's estate, if consisting of property subject to Court of Wards. And in other cases. Who may be appointed Manager.

IX. When a person has been adjudged to be of unsound mind and incapable of managing his affairs, if the estate of such person or any part thereof consist of property which by the law in force in any Presidency subjects the proprietor, if disqualified, to the superintendence of the Court of Wards, the Court of Wards shall be authorized to take charge of the same. In all other cases, except as otherwise hereinafter provided, the Civil Court shall appoint a Manager of the estate. Any near relative of the Lunatic or the Public Curator, or, if there be no Public Curator, any other suitable person, may be appointed Manager.

Appointment of Guardian by Civil Court.

X. Whenever a Manager of the estate of a Lunatic is appointed by the Civil Court, the Court shall appoint a fit person to be Guardian of the person of the Lunatic. The Manager, unless he be the Public Curator, may be appointed Guardian. Provided always, that the legal heir of the Lunatic shall not in any case be appointed Guardian of his person.

Court may direct Collector to take charge of Lunatic's estate, if consisting of land not subject to Court of Wards. Proceedings of Collector subject to control of superior Revenue Authorities.

XI. If the estate consist in whole or in part of land or any interest in land not subject to the jurisdiction of the Court of Wards, the Civil Court, instead of appointing a Manager, may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a Manager of the property and a Guardian of the person of the Lunatic. All the proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities.

Remuneration of Managers and Guardians.

XII. If the person appointed to be Manager of the estate of a Lunatic, or the person appointed to be Guardian of a Lunatic's person, shall be unwilling to discharge the trust gratuitously, the Court or the Collector, as the case may be, may fix such allowance or allowances to be paid out of the estate of the Lunatic, as under the circumstances of the case may be thought suitable.

Duties of Guardian.

XIII. The person appointed to be Guardian of a Lunatic's person shall have the care of his person and maintenance. When a distinct Guardian is appointed, the Manager shall pay to the Guardian such allowance as shall be fixed by the Court or the Collector, as the case may be, for the maintenance of the Lunatic and of his family.

Powers of Managers.

XIV. Every Manager of the estate of a Lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor, if not a Lunatic: and may collect and pay all just claims, debts, and liabilities due to or by the estate of the Lunatic. But no such Manager shall have power to sell or mortgage the estate or any part thereof, or to grant a lease of any immoveable property for any period exceeding five years, without an order of the Civil Court previously obtained.

Managers to furnish inventory and annual accounts. Proceeding, if accuracy of inventory or accounts impugned.

XV. Every person appointed by the Civil Court or by the Collector to be Manager of the estate of a Lunatic shall, within six months from the date of his appointment, deliver in Court or to the Collector, as the case may be, an inventory of the landed property belonging to the Lunatic, and of all such sums of money goods, and effects, as he shall receive on account of the estate, together with a

statement of all debts due by or to the same. And every such Manager shall furnish to the Court or to the Collector annually, within three months of the close of the year of the era current in the District, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands. If any relative of the Lunatic, or any public Officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement, or of any annual account, the Court may summon the Manager and enquire summarily into the matter and make such order thereon as it shall think proper; or the Court, at its discretion, may refer any such petition to any subordinate Court, or to the Collector if the Manager was appointed by the Collector.

Manager to pay proceeds of estates into the public Treasury.

XVI. All sums received by a Manager on account of any estate in excess of what may be required for the current expenses of the Lunatic or of the estate, shall be paid into the public Treasury on account of the estate, and may be invested from time to time in the public Securities.

Relative may sue for an account.

XVII. It shall be lawful for any relative of a Lunatic to sue for an account from any Manager appointed under this Act, or from any such person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Removal of Manager or Guardian by Civil Court. Removal by Collector.

XVIII. The Civil Court, for any sufficient cause, may remove any Manager appointed by the Court, not being a Public Curator, and may appoint such Curator or any other fit person in his room, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all monies received or disbursed by him. The Court may also, for any sufficient cause, remove any Guardian appointed by the Court. In like manner the Collector, for any sufficient cause, may remove any Manager or Guardian appointed by the Collector; and the Court, on the application of the Collector, shall compel any Manager so removed to deliver his accounts and the property in his hands.

Manager refusing to furnish accounts, may be fined by the Court, etc.

XIX. The Civil Court may impose a fine not exceeding five hundred Rupees on any Manager of the estate of a Lunatic, who wilfully neglects or refuses to deliver his accounts or any property in his hands within the prescribed time or a time fixed by the Court, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court, and may also commit the recusant to close custody until he shall deliver such accounts or property

Court may in certain cases apply property for Lunatic's maintenance without appointing any Manager.

XX. If it appears to the Civil Court, having regard to the situation and condition in life of the Lunatic and his family, and the amount and description of his property, to be unnecessary to appoint a Manager of the estate as hereinbefore provided, the Court may, instead of appointing such Manager, order that the property, if money, or if of any other description the produce thereof, when realized, be paid to such person as the Court may think fit, to be applied for the maintenance of the Lunatic and his family.

Court may institute inquiry to ascertain whether a person has ceased to be of unsound mind. And may order estate to be restored.

XXI. When any person has been adjudged to be of unsound mind and incapable of managing his affairs, if such or any other person acting on his behalf or having or claiming any interest in respect of his estate, shall represent by petition to the Civil Court, or if the Court shall be informed in any other manner, that the unsoundness of mind of such person has ceased, the Court may institute an enquiry for the purpose of ascertaning whether such person is or is not still of unsound mind and incapable of managing his affairs. The enquiry shall be conducted in manner provided in Section IV and the four following Sections of this Act; and if it be adjudged that such person has ceased to be of unsound mind and incapable of managing his affairs, the Court shall make an order for his estate to be delivered over to him, and such order shall be final.

Orders to be open to appeal.

XXII. Except as otherwise herein provided, all orders made by a Civil Court, or by any subordinate Court under this Act, shall be open to appeal under the rules in force for appeals in miscellaneous cases.

Interpretation. "Lunatic." "Civil Court." Gender.

XXIII. The word "Lunatic" as used in this Act, unless the contrary appears from the context, shall mean every person found by due course of law to be of unsound mind and incapable of managing his affairs. The expression "Civil Court" shall mean the principal Court of original jurisdiction in the District. Words importing the masculine gender shall include females.

ACT No. XXXVI. OF 1858.

1. Lunatic Asylums may be established by Government or may be licensed.
2. Rules for the management of Asylums to be sanctioned by Government. Appointment of visitors.
3. Monthly inspection by visitors.
4. Wandering and dangerous Lunatics to be sent to the Magistrate. Certificate and order for reception in Asylum. In certain cases, a Lunatic may be committed to the care of his friends or relatives. Or sent to a licensed Asylum.
5. In case of neglect or cruel treatment of a Lunatic, Magistrate may order relative, or person bound to maintain him, to provided for the proper treatment of such Lunatic. If no person bound to maintain him, Magistrate may make an order for his reception in Asylum. Darogah to report neglect.
6. Commissioner of Police, &c., to act in the Presidency Towns and Straits Settlement.
7. Order and certificate for reception into an Asylum in Presidency Towns and Straits Settlement.
8. In places other than Presidency Towns &c., no person to be received into Asylum without order of Civil Court.
9. Order of discharge from Asylum.
10. Order of discharge on undertaking of relative for due treatment of the Lunatic.
11. Inspector of Jails may make order of removal from one public Asylum to another.
12. Amendment of order or certificate.
13. Order and certificate to justify detention, and re-capture after escape.
14. In what cases Government to pay for the maintenance of Lunatic.
15. Civil Court, on application of Magistrate, may make order for the payment of cost of maintenance out of the Lunatic's estate, or by person bound to maintain him. Enforcement, &c., of order. Property in the possession of a Lunatic found wandering.
16. Saving of liability of relatives to maintain Lunatic.
17. Saving of powers of Royal Charter Courts, &c., and of Act IV of 1849.
18. Interpretation. "Lunatic." "Magistrate."

An Act relating to Lunatic Asylums.

WHEREAS it is expedient to provide for the reception and detention of Lunatics in Asylums established for that purpose ; It is enacted as follows :—

Lunatic Asylums may be established by Government or may be licensed.

I. The Executive Government of any Presidency or place, with the sanction of the Governor General of India in Council, may establish Asylums for the reception and detention of Lunatics at such places within the limits of the said Government as may be deemed proper. Any such Executive Government may also, if it think fit, grant licenses to any private persons for the establishment of such Asylums within the said limits, and may withdraw such licenses.

Rules for the management of Asylums to be sanctioned by Government. Appointment of visitors.

II The management of every Lunatic Asylum and the care and custody of its inmates shall be regulated according to such rules as shall from time to time be sanctioned by the Executive Government. The Executive Government shall appoint for every Asylum not less than three visitors, one of whom at least shall be a Medical Officer. The Inspector of Jails (where such office exists) shall be a visitor ex-officio of all the Asylums within the circle of his inspection.

Monthly inspection by visitors.

III. Two or more of the visitors, one of whom shall be a Medical Officer, shall, once at the least in every month, together inspect every part of the Asylum or Asylums of which they are visitors, and see and examine, as far as circumstances will permit, every Lunatic therein, and the order and certificate for the admission of every Lunatic admitted since the last visitation of the visitors ; and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the Asylum and the Lunatics therein.

Wandering and dangerous Lunatics to be sent to the Magistrate. Certificate and order for reception in Asylum. In certain cases, a Lunatic may be committed to the care of his friends or relatives. Or sent to a licensed Asylum.

IV. It shall be the duty of every Darogah or District Police Officer to apprehend and send to the Magistrate all persons found wandering at large within his District who are deemed to be Lunatics, and all persons believed to be dangerous by reason of Lunacy. Whenever any such person as aforesaid is brought before a Magistrate, the Magistrate, with the assistance of a Medical Officer, shall examine such person, and if the Medical Officer shall sign a certificate in the Form A in the Schedule to this Act, and the Magistrate shall be satisfied on personal examination or other proof that such person is a Lunatic and a proper person to be detained under care and treatment, he shall make an order for such

Lunatic to be received into the Asylum established for the Division in which the Magistrate's jurisdiction is situate, or, if such Lunatic is not a native of the country and the circumstances of the case so require, into a Lunatic Asylum at the Presidency; and shall send the Lunatic in suitable custody to the Asylum mentioned in such order. Provided that, if any friend or relative of any Lunatic, who is believed to be dangerous, shall undertake in writing to the satisfaction of the Magistrate that such Lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or others, the Magistrate, insted of sending him to an Asylum, may make him over, to the care of such friend or relative. Provided also that, if any such friend or relative shall desire that the Lunatic may be sent to a licensed Asylum instead of the public Asylum of the Division, and shall engage in writing to the satisfaction of the Magistrate to pay the expenses which may be incurred for the lodging, maintenance, medicine, clothing, and care of the Lunatic in such Asylum, the Magistrate may send the Lunatic to the licensed Asylum mentioned in the engagement.

In case of neglect or cruel treatment of a Lunatic, Magistrate may order relative, or person bound to maintain him, to provide for the proper treatment of such Lunatic. If no person bound to maintain him, Magistrate may make an order for his reception in Asylum. Darogah to report neglect.

V. If it shall appear to the Magistrate, on the report of a Police Officer or the information of any other person, that any person within the limits of his Jurisdiction deemed to be a Lunatic is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may send for the supposed Lunatic, and summon such relative or other person as has or ought to have the charge of him; and if such relative or other person be legally bound to maintain the supposed Lunatic, the Magistrate may make an order for such Lunatic being properly cared for and treated, and, if such relative or other person shall wilfully neglect to comply with the said order, may commit him to jail for a period not exceeding one month. If there be no person legally bound to maintain the supposed Lunatic, or if the Magistrate think fit so to do, he may proceed as prescribed in the last preceding Section, and, upon being satisfied in manner aforesaid that the person deemed to be a Lunatic is a Lunatic and a proper person to be detained under care and treatment, may make an order for his reception into such Asylum as aforesaid. It shall be the duty of every Darogah or District Police Officer to report to the Magistrate every such case of neglect or cruel treatment as aforesaid which may come to his knowledge.

Commissioner of Police, etc., to act in the Presidency Towns and Straits Settlement.

VI. All acts, which the Magistrate is authorized or required to do by the two last preceding Sections, may be done in the Presidency Town and the Stations of the Straits Settlement by the Commissioner of Police; and all duties which a Darogah or District Police Officer is authorized or required to perform, may be performed in any of the said Towns and Stations by an Officer of the Police Force not below the rank of Inspector.

Order and certificate for reception into an Asylum in Presidency Towns and Straits Settlement.

VII. Except as otherwise hereinbefore provided, no person shall be received into a Lunatic Asylum in any Presidency Town or in any Station of the Straits Settlement without an order under the hand of some person in the Form B in the Schedule to this Act, together with such statement of particulars as is contained in the said Form B; nor, unless such person has been found Lunatic by inquisition or under an enquiry directed by an order of one of the Courts of Judicature established by Royal Charter, without the medical certificate containing the particulars in Form A in the Schedule to this Act, of two persons each of whom shall be a Physician or Surgeon and one of whom shall be a Presidency Surgeon or a Surgeon in the employment of the Government. When such order is presented, the visitors or manager of the Asylum, before admitting the Lunatic into the Asylum, may require the friends of the said Lunatic to engage to pay the expenses which may be incurred for the lodging, maintenance, clothing, medicine, and care of the Lunatic, unless it shall appear to the said visitors that they have not sufficient means of doing so.

In places other than Presidency Towns, etc., no person to be received into Asylum without order of Civil Court.

VIII. *Clause* 1.—In places other than those specified in the last preceding Section, no person shall be received into a Lunatic Asylum, except as otherwise hereinbefore provided, without an order of the Civil Court.

Clause 2.—When any person has been adjudged to be a Lunatic, and a guardian for such Lunatic has been appointed by the Court of Wards or the Collector, or by the Civil Court, if such guardian shall desire that the Lunatic be admitted into a Lunatic Asylum, he shall make application to the Civil Court, and the Judge, with the assistance of a Medical Officer, shall examine such Lunatic, and if the Medical Officer shall sign a certificate in the Form A in the Schedule to this Act, and the Judge shall be satisfied that the Lunatic is a proper person to be detained under care and treatment in a Lunatic Asylum, he shall make an order for such person to be received into the Asylum established for the Division in which his jurisdiction is situate, or, if he think fit, into any licensed Asylum mentioned in the application.

Clause 3.—If any relative or friend of any person for whom a guardian has not been appointed by the Court of Wards or the Collector or by the Civil Court, desires that such person may be admitted into a Lunatic Asylum, he may make application to the Civil Court, and the Judge, if he see sufficient reason for so doing, shall enquire into the fact of Lunacy in the same manner as if an application had been made to the Civil Court under the provisions of Section III of Act XXXV of 1858 entitled "*An Act to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature*"; and if the Lunacy be established, the Judge may then proceed in the manner prescribed in the second Clause of this Section.

Clause 4.—Whenever the Judge shall make an order for the reception of any person into a Lunatic Asylum, he shall, at the same time, make an order for the payment of the expenses to be incurred for the lodging, maintenance, clothing, medicine, and care of such person; and such expenses shall be recovered by the Judge on the application of the visitors or manager of such Asylum. Provided however that, if it shall appear to the satisfaction of the Judge that the Lunatic has not sufficient property, and that no person legally bound to maintain the said Lunatic has sufficient means for the payment of such expenses, he shall certify the same in the order for the reception of the Lunatic into the Asylum, instead of making such order for the payment of expenses as aforesaid.

Order of discharge from Asylum.

IX. It shall be lawful for three of the visitors of any Asylum, of whom one shall be a Medical Officer, by writing under their hands, to order the discharge of any person detained in such Asylum. When such order is given, if the person is detained under the order of any public Officer, notice of the order of discharge shall be immediately communicated to such Officer.

Order of discharge on undertaking of relative for due treatment of the Lunatic.

X. When any relative or friend of a Lunatic, detained in any Asylum under the provisions of Section IV, Section V, or Section VI of this Act, is desirous that such Lunatic shall be delivered over to his care and custody, he shall make application to the Magistrate or Commissioner of Polic under whose order the Lunatic is detained, and the Magistrate or Commissioner of Police, if he think fit, after communication with the visitors or with one of them being a Medical Officer, and upon the undertaking in writing of such relative or friend, to the satisfaction of the said Magistrate or Commissioner, that such Lunatic shall be properly taken care of and shall be prevented from doing injury to himself or others, shall make an order for the discharge of such Lunatic, and such Lunatic shall thereupon be discharged.

Inspector of Jails may make order of removal from one public Asylum to another.

XI. The Inspector of Jails may direct the removal of any Lunatic from any public Asylum to any other public Asylum within the circle of his inspection and such order shall be sufficient authority for the removal of such Lunatic, and also for his reception into the Asylum to which he is ordered to be removed.

Amendment of order or certificate.

XII. If, after the reception of any Lunatic into any Asylum, it appear that the order or the medical certificate or certificates upon which he was received is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the said Asylum, one of whom shall be a medical Officer.

Order and certificate to justify detention, and re-capture after escape.

XIII. Every person received into a Lunatic Asylum under any such order as is required by this Act, accompanied by the requisite medical certificate, may be detained therein until he be removed or discharged as authorized by this Act, and in case of escape may, by virtue of such order, be re-taken by the manager of such Asylum, or any officer or servant belonging thereto, or any other person authorized in that behalf by the said manager, or any Police Officer, and conveyed to and received and detained in such Asylum.

In what cases Government to pay for the maintenance of Lunatic.

XIV. When any Lunatic is sent to a licensed Asylum by order of a Magistrate or Commissioner of Police under Section IV, Section V, or Section VI of this Act, and when a Lunatic is admitted into such Asylum under Section VII, or an order for the reception of a Lunatic is made under Section VIII, and no engagement has been taken from the friends of the Lunatic, or order made by the Judge, for the payment of expenses under the said Section VII or Section VIII respectively, the expense of the lodging, maintenance, clothing, medicine, and care of such Lunatic shall be paid by the Government to the manager of such Asylum.

Civil Court, on application of Magistrate, may make order for the payment of cost of maintenance out of the Lunatic's estate, or by person bound to maintain

XV. The Magistrate or Commissioner of Police by whom any Lunatic has been sent to a Lunatic Asylum, if it appear to such Magistrate or Commissioner that such Lunatic has an estate applicable to his maintenance and more than sufficient to maintain his family, or that any person is legally bound to maintain and has the means of maintaining such Lunatic, may apply to the chief Civil Court of original jurisdiction within the local jurisdiction of which the estate of the Lunatic may be situate, or the person legally bound to maintain him may

reside, and such Court shall enquire into the matter in a summary way, and, on being satisfied that such Lunatic has an estate applicable to his maintenance, or that any person is legally bound to maintain and has the means of maintaining such Lunatic, shall make an order for the recovery of the charges of the lodging, maintenance, clothing, medicine, and care of such Lunatic out of such estate or from such person. Such order shall be enforced in the same manner and shall be of the same force and effect and subject to the same appeal, as any judgment or order made by the said Court in a regular suit in respect of the property, or person therein mentioned. Any personal property, which may be in the possession of a Lunatic found wandering at large, may be sold by the Magistrate, and the proceeds thereof (or such part of the same as may be necessary) applied towards the payment of the charges of the lodging and maintenance of the Lunatic, and of any other expenses incurred on his behalf.

him. Enforcement, etc., of order. Property in the possession of a Lunatic found wandering.

XVI. The liability of any relative or person to maintain any Lunatic shall not be taken away or affected by any provision contained in this Act.

Saving of liability of relatives to maintain Lunatic.

XVII. Nothing contained in this Act shall be taken to interfere with the power of any of the Courts of Judicature established by Royal Charter over any person found to be Lunatic by inquisition or under the provisions of Act XXXIV. of 1858 entitled "*An Act to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter*," or with the rights of any Committee of the person or estate of such Lunatic, or to affect the provisions of Act IV of 1849 entitled "*An Act for the safe custody of Criminal Lunatics.*"

Saving of powers of Royal Charter Courts, &c., and of Act IV of 1849.

XVIII. The word "Lunatic," as used in this Act, shall mean and include every person of unsound mind, and every person being an idiot,

The word "Magistrate" shall include a person exercising the power of a Magistrate.

Interpretation. "Lunatic." "Magistrate."

SCHEDULE.

FORM A.

CERTIFICATE OF MEDICAL OFFICER.—(*See Sections IV and VIII.*)

I, the undersigned, (*here enter name and official designation.*) hereby certify that I, on the day of at , personally examined (*here enter name and residence of Lunatic*) and that the said is a Lunatic (*or an idiot, or a person of unsound mind*) and a proper person to be taken charge of, and detained under care and treatment, and that I have formed this opinion on the following grounds namely:—

1. Facts indicating insanity observed by myself (*here state the facts.*)
2. Other facts (if any) indicating insanity communicated to me by others. (*here state the information and from whom.*)

(Signed) _____

FORM B.

ORDER FOR THE RECEPTION OF A PRIVATE PATIENT.—*See Section VII.*

I, the undersigned, hereby request you to receive A. B., a Lunatic, [*or an idiot, or a person of unsound mind,*] as a patient into your Asylum. Subjoined is a statement respecting the said A. B.

(Signed) name
Occupation (if any)
Place of abode
Degree of relationship (if any), or other circumstance of connexion with the patient.

Dated this day of one thousand eight hundred and

To Superintendent of the Asylum at [*describing the Asylum*]

STAEMENT.

[*If any of the particulars in this Statement be not known, the fact to be so stated.*]

Name of patient, with Christian name at length.
Sex and age.
Married, single, or widowed.
Condition of life, and previous occupation (if any).
The religious persuasion, as far as known.

Previous place of abode.
Whether first attack.
Age (if known) on first attack.
When and where previously under care and treatment.
Duration of existing attack.
Supposed cause.
Whether subject to Epilepsy.
Whether suicidal.
Whether dangerous to others.
Whether found Lunatic by inquisition or enquiry under order of Court, and date of Commission or order for inquisition or enquiry.
Whether any member of patient's family has been or is affected with insanity.
(Signed) Name.
[*Where the person signing the Statement is not the person who signs the order, the following particulars concerning the person signing the Statement are to be added; namely,*]
Occupation (if any).
Place of abode.
Degree of relationship (if any), or other circumstances of connexion with the patient.

ACT No. XXXVIII. OF 1858.

1. Regulation repealed.
2. Suits and proceedings pending at the time of the transfer of the Territory. Suits instituted subsequently.
3. Suits determined before the transfer, but which may be remanded by an Appellate Court.
4. Appeals or proceedings now pending before the Sudder Court or Board. Applications for execution of decrees.
5. Appeals not pending at the time of the transfer of the Territory.

An Act to repeal Regulation V. 1832 of the Bengal Code, and to make certain provisions rendered necessary by the transfer of the Delhi Territory to the administration of the Chief Commissioner of the Punjab.

WHEREAS the whole of the Delhi Territory, except such part thereof as is specified in the Schedule to this Act annexed, has been placed under the administration of the Chief Commissioner of the Punjab, and it is expedient that Regulation V. 1832 of the Bengal Code should be repealed; It is enacted as follows:—

Regulation repealed.

I. Regulation V. 1832 of the Bengal Code is hereby repealed, except as to that part of the Delhi Territory which is mentioned in the Schedule to this Act annexed.

Suits and proceedings, pending at the time of the transfer of the territory, Suits instituted subsequently.

II. All suits and proceedings which were pending in any Court or before any officer within any part of the said teritory, except as aforesaid, at the time when the same was placed under the administration of the said Chief Commissioner of the Punjab, and which have been or shall be transferred to the Courts or officers which have been or shall be established or appointed for the administration of Civil and Criminal justice and the collection of the revenues therein, shall be deemed to have been lawfully transferred to such Courts and officers according to their respective jurisdisctions; and any suits or proceedings which, subsequently to the time when the said territory was so placed under such administration, shall have been instituted in any such Court or before any such officer, shall be deemed to have been lawfully instituted.

Suits determined before the transfer but which may be remanded by an Appellate Court.

III. Any suit which, prior to the time when the said Territory was placed under the administration of the said Chief Commissioner, had been determined, and which hath been or shall be remanded by any Appellate Court, shall be tried before the Court which, for the time being, would be competent to try such a suit if instituted after the passing of this Act.

Appeals or proceedings now pending before the Sudder Court or board, Applications for execution of decrees.

IV. All appeals or proceedings now pending in the Court of Sudder Dewany Adawlut, or in the Court of Nizamut Adawlut, or before the Sudder Board of Revenue for the North-Western Provinces, shall be determined by such Court or Board in the same manner as if this Act had not been passed; and all applications for execution of decrees or orders which, but for the passing of this Act,

would have been made to any Court existing at the period abovementioned, shall be made to the Court or Officer who would have had jurisdiction in respect of the matter in dispute, had the suit or proceeding been instituted after the passing of this Act.

Appeals not pending at the time of the transfer of the Territory.

V. All appeals from decrees or orders passed before the said Territory was so placed under the administration of the said Chief Commissioner of the Punjab, which were not pending when the said Territory was so placed under the administration of the said Chief Commissioner, shall be received, heard, and determined by the Courts or Officers who would have had jurisdiction over such appeals had the decrees or orders to which they relate been passed after the passing of this Act; and all decisions or orders passed by any such Courts or Officers on any appeals, which may have been preferred between the date on which the said Territory was so placed under the administration of the said Chief Commissioner of the Punjab and the date of the passing of this Act, shall be of the same force as if such decisions or orders had been passed after the passing of this Act.

SCHEDULE.

The tract, commonly called the Eastern Pergunnah, lying on the left bank of the Jumna.

ACT No. XL. OF 1858.

1. Regulations repealed.

2. Persons and property of Minors not under the protection of the Court of Wards shall be subject to jurisdiction of Civil Court.

3. What persons claiming to have charge of property in trust for a Minor may apply for Certificate of Administration. No person to institute or defend a suit without such Certificate. Proviso.

4. Who may apply to Court to appoint a person to take charge of the property, &c., of a Minor.

5. To what Court application to be made, if property be situate in more than one District.

6. Summary enquiry to be made by Court on application. Proviso.

7. Certificate of administration to whom to be granted. Courts may appoint person having such Certificate, Guardian of the Minor's person.

8. Court may call upon Collector or Magistrate for a report on the character and qualifications of relative or friend.

9. Proceeding if no title to a Certificate be established, and if there be no relative fit to be entrusted with the property, &c., of a Minor.

10. If estate consist only of moveable property, &c., Court may grant Certificate to Public Curator or other person.

11. Appointment of Guardian. Guardian's allowance. Minor's allowance.

12. When the estate consists of land, Court may direct Collector to take charge of estate. Appointment of Manager and Guardian thereupon.

13. Costs of enquiries under this Act.

14. When an estate, some of the co-proprietors of which are still Minors, ceases to be subject to the Courts of Wards, Civil Court may direct Collector to retain charge of shares and persons of Minors. Provision for case of estate situated in more than one District.

15. Proceedings of Collector subject to control of superior Revenue Authorities.

16. Public Curator, &c., to furnish inventory and annual accounts. Proceeding, if accuracy of inventory or account be impugned.

17. Public Curator, &c., to pay proceeds of estates into Treasury, Surplus funds to be invested in public Securities.

18. Powers of person to whom Certificate has been granted, in the management of Minor's estate.

19. Relative or friend may sue for an account.

20. Continuance of suit instituted under this Act after disqualification shall have ceased.

21. Revocation of Certificate. Removal of Guardian.

22. Penalty for neglect or refusal to deliver accounts or property.

23. Civil Court may permit resignation of trust, &c.

24. Remuneration of Public Curator, &c.

25. Guardians of Minors under this Act to provide for their education. Act XXVI of 1854 declared applicable.

26. Persons under the age of 12 years to be held Minors for the purposes of this Act.

27. Act not to authorize the appointment of Guardians of certain married women and other persons. Guardianship during the minority of the father or husband of a Minor, when to cease.

28. Appeals.

29. Construction of the Words "Civil Court," &c., Powers of Supreme Court not affected. Number. Gender.

An Act for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal.

WHEREAS it is expedient to make better provision for the care of the persons and property of Minors not brought under the superintendence of the Court of Wards; It is enacted as follows :—

I. Repealed by Act XIV. of 1870.

Persons and property of Minors not under the Court of Wards shall be subject to jurisdiction of Civil Cout.

II. Except in the case of proprietors of estates paying Revenue to Government who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all Minors (not being European British subjects) and the charge of their property shall be subject to the jurisdiction of the Civil Court.

What persons may apply for Certificate of administration.

No person to institute or defend a suit without such Certificate.

Proviso.

III. Every person who shall claim a right to have charge of property in trust for a Minor under a Will or Deed, or by reason of nearness of kin, or otherwise, may apply to the Civil Court for a Certificate of administration; and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge, until he shall have obtained such Certificate. Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a Minor to institute or defend a suit on his behalf, although a Certificate of administration has not been granted to such relative.

Who may apply to Court to appoint a person to take charge of the property, &c., of a Minor.

IV. Any relative or friend of a Minor in respect of whose property such Certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the District may apply to the Civil Court to appoint a fit person to take charge of the property and person of such Minor.

To what Court application to be made, if property be situate in more than one District.

V. If the property be situate in more than one District, any such application as aforesaid shall be made to the Civil Court of the District in which the Minor has his residence.

Summary enquiry to be made by Court.

VI. When application shall have been made to the Civil Court, either by a person claiming a right to have charge of the property of a Minor, or by any relative or friend of a Minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same. On the day so fixed, or as soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case. Provided always, that it shall be competent to the Civil Court to direct any Court subordinate to it to make such enquiry and report the result.

Certificate of administration to whom to be granted. Such person may be appointed Guardian of the Minor's person.

VII. If it shall appear that any person claiming a right to have charge of the property of a Minor is entitled to such right by virtue of a Will or Deed, and is willing to undertake the trust, the Court shall grant a Certificate of administration to such person. If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the Minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a Certificate to such relative. The Court may also, if it think fit, (unless a Guardian have been appointed by the father), appoint such person as aforesaid or such relative or any other relative or friend of the Minor, to be Guardian of the person of the Minor.

Court may call upon Collector or Magistrate for a report.

VIII. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the Minor, who may be desirous or willing to be entrusted with the charge of his property or person.

Proceeding if no title to a Certificate be established, and if there be no relative fit to be entrusted.

IX. If no title to a Certificate be established to the satisfaction of the Court by a person claiming under a Will or Deed, and if there be no near relative willing and fit to be entrusted with the charge of the property of the Minor, and the Court shall think it to be necessary for the interest of the Minor that provision should be made by the Court for the charge of his property and person, the Court may proceed to make such provision in the manner hereinafter provided.

If estate consist only of moveable proper-

X. If the estate of the Minor consist of moveable property, or of houses gardens, or the like, the Court may grant a Certificate to the Public Curator

appointed under Section XIX Act XIX of 1841 (*for the protection of moveable and immoveable property against wrongful possession in certain cases*), or, if there be no Public Curator, to any fit person whom the Court may appoint for the purpose.

ty, etc., Court may grant Certificate to Public Curator.

XI. Whenever the Court shall grant a Certificate of administration to the estate of a Minor to the Public Curator or other person as aforesaid, it shall at the same time appoint a Guardian to take charge of the person and maintenance of the Minor. The person to whom a Certificate of administration has been granted, unless he be the Public Curator, may be appointed Guardian. If the person appointed to be Guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the Minor, as under the circumstances of the case it may think suitable. The Court may also fix such allowance as it may think proper for the maintenance of the Minor; and such allowance and the allowance of the Guardian (if any) shall be paid to the Guardian by the Public Curator or other person as aforesaid.

Appointment of Guardian. Guardian's allowance. Minor's allowance.

XII. If the estate of the Minor consist, in whole or in part, of land or any, interest in land the Court may direct the Collector to take charge of the estate and thereupon the Collector shall appoint a Manager of the property of the Minor and a Guardian of his person, in the same manner and subject to the same rules in respect of such appointments and of the duties to be performed by the Manager and the Guardian respectively, so far as the same may be applicable, as if the property and person of the Minor were subject to the jurisdiction of the Court of Wards.

When the estate consists of land, Court may direct Collector to take charge. Appointment of Manager and Guardian thereupon.

XIII. In all enquiries held by the Civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application the enquiry was made, or out of the estate of the Minor, or otherwise, as it may think proper.

Costs of enquiries under this Act.

XIV. Whenever one or more of the proprietors of an estate, which has come under the jurisdiction of the Court of Wards on account of the disqualification of all the proprietors, ceases to be subject to the jurisdiction of the Court of Wards notwithstanding the continued disqualification of one or more of the co-proprietors, the Collector of the District in which the estate is situate may represent the fact to the Civil Court; and the Court, unless it see sufficient reason to the contrary, shall direct the Collector to retain charge of the persons, and of the shares of the property of the still disqualified proprietors, during the continuance of their disqualification, or until such time as it shall be otherwise ordered by the Court. The Collector shall in such case appoint a Guardian for the care of the persons, and a Manager for the charge of the property of the disqualified proprietors, in the manner prescribed in Section XII. If the property be situate in more than one District, the representation shall be made by the Collector who had the general management of the property under the Court of Wards, to the Civil Court of his own District, and the orders of the Court of that District shall have effect also in other Districts in which portions of the property may be situate.

When an estate, some of the co-proprietors of which are still Minors, ceases to be subject to the Court of Wards, Civil Court may direct Collector to retain charge of shares and persons of Minors. Provision for case of estate situated in more than one District.

XV. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities.

Proceedings of Collector subject to control.

XVI. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section X shall, within six months from the date of the Certificate, deliver in Court an inventory of any immoveable property belonging to the Minor, and of all such sums of money, goods, effects, and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same. And the Public Curator and every such other Administrator shall furnish annually, within three months from the close of the year of the era current in the District, an account of the property in his charge, exhibiting the amounts received and disbursed on account of the estate, and the balance in hand. If any relative or friend of a Minor or any Public Officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the Curator or Administrator and enquire summarily into the matter, and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court.

Public Curator, etc. to furnish inventory and annual account. Proceeding if accuracy of inventory or account be impugned.

XVII. All sums received by the Public Curator or such other Administrator on account of any estate, in excess of what may be required for the current expenses of the Minor or of the estate, shall be paid into the public Treasury on account of the estate, and may be invested from time to time in the public Securities.

Surplus funds to be paid into Treasury and invested in public Security.

XVIII. Every person to whom a certificate shall have been granted under the provisions of this Act may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a Minor, and may

Powers of the holder of a Certificate.

collect and pay all just claims, debts, and liabilities due to or by the estate of the Minor. But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the Civil Court previously obtained.

Removal of Guardian. Revocation of Certificate.

XIX. It shall be lawful for any relative or friend of a Minor, at any time during the continuance of the minority, to sue for an account from any Manager appointed under this Act, or from any person to whom a Certificate shall have been granted under the provisions of this Act, or from any such Manager or person after his removal from office or trust, from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Continuance of suit after disqualification shall have ceased.

XX. If the disqualification of a person, for whose benefit a suit shall have been instituted under this Act, cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Relative or friend may sue for an account.

XXI. The Civil Court for any sufficient cause may recall any Certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a Certificate to the Public Curator or any other person as the case may be ; and may compel the person whose Certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all monies received and disbursed by him. the Court may also for any sufficient cause remove any Guardian appointed by the Court.

Penalty for neglect or refusal to deliver accounts or property.

XXII. The Civil Court may impose a fine not exceeding Five Hundred Rupees on any person who may wilfully neglect or refuse to deliver his accounts, or any property in his hands, within the prescribed time, or a time fixed by the Court ; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court ; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property.

Civil court may permit resignation of trust, etc.,

XXIII. The Civil Court may permit any person to whom a Certificate shall have been granted under this Act, not being the Public Curator, and any Guardian appointed by the Court, to resign his trust ; and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all monies received and disbursed by him, and making over the property in his hands.

Remuneration of Public Curator, etc.

XXIV. The public Curator, and every other Administrator to whom a Certificate shall have been granted under Section X, shall be entitled to receive such commission, not exceeding five per centum on the sums received and disbursed by him, or such other allowance, to be paid out of the Minor's estate, as the Civil Court shall think fit.

Guardians of Minors to provide for their education. Act XXVI, of 1854. declared applicable.

XXV. Every Guardian appointed by the Civil Court, or by the Collector under this Act, who shall have charge of any male Minor, shall be bound to provide for his education in a suitable manner. The general superintendence and control of the education of all such Minors shall be vested in the Civil Court or in the Collector, as the case may be ; and the provisions of Act XXVI of 1854 *(for making better provision for the education of male Minors subject to the superintendence of the Court of Wards)* shall, so far as is consistent within the provisions herein contained, be applicable to the Civil Court, or to the Collector, as the case may be, in respect to such Minors, and to every such Guardian.

Person under the age of 18 years to be held Minors.

XXVI. For the purposes of this Act, every person shall be held to be a Minor, who has not attained the age of eighteen years.

Guardians not to be appointed if husbands or fathers of minors are not minors. Guardianship to cease on majority of father or husband. Guardian of female Minor to be a female.

XXVII. Nothing in this Act shall authorize the appointment of a Guardian of the person of a female whose husband is not a Minor, or the appointment of a Guardian of the person of any Minor whose father is living and is not a Minor ; and nothing in this Act shall authorize the appointment of any person other than a female as the Guardian of the person of a female. If a Guardian of the person of a Minor be appointed during the minority of the father or husband of the Minor, the Guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority.

Appeals.

XXVIII. All orders passed by the Civil Court or by any Subordinate Court under this Act shall be open to appeal, under the rules in force for appeals, in miscellaneous cases, from the orders of such Court and the Subordinate Courts.

Construction.

XXIX. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original jurisdiction in the District, and shall not include the Supreme Court ; and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any Minor subject to its jurisdiction. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number ; and words importing the masculine gender shall include females.

FURTHER ERRATUM.

The following Acts and parts of Acts which have been reprinted in this Part, have been repealed by Act VIII. of 1868.

Act IX. of 1859, except Sections 16, 17, 18, and 20, Act XXVIII. of 1859; Act I. of 1860, Sections 1 and 3, Act XVI. of 1860; Act XVII. of 1860, Sections 1, 4 and 5; Act XXIV. of 1860; Act XXX. of 1860; Act VI. of 1861; Act XI, of 1861; Act XXX. of 1861.

ERRATUM.

Page 149, against Sections II, III, VI, VII, Act XXII of 1860, for *Repealed by Act X of 1870*, read *Proposed to be repealed by Bill* 10 *of* 1870.

" 262, against Section III Act XVII of 1861, for *Act XLV of 1870*, read *Act XIV of 1870*.

" 271, last line, for *Act VIII of 1856*, read *Act VIII of 1859*.

BENGAL SECRETARIAT LIBRARY

THE LEGISLATIVE ACTS

OF THE

GOVERNOR-GENERAL OF INDIA IN COUNCIL.

ACT No. I. OF 1859.*

1. *Acts repealed*
2. *Shipping Offices.*
3. *Appointment, removal, and control of Shiping Masters and their deputies.*
4. *Business of Shipping Masters.*
5. *Fees to be paid upon engagements and discharges.*
6. *Fees by whom to be paid, &c.*
7. *Penalty on shipping Master taking other remuneration.*
8. *Business of Shipping Office may be transacted at Custom House, or elsewhere.*
9. *Examinations.*
10. *Local Government to appoint examiners. Rules for conduct of examination. Fees.*
11. *Certificates of competency.*
12. *Certificates of service.*
13. *No Foreign-going ship, and no Home-trade ship above 300 tons, to go to sea without certificated master, &c.*
14. *Certificates for Foreign-going ships available for Home-trade ships.*
15. *Record of grants, cancellations, &c., of certificates.*
16. *Loss of certificate.*
17. *Forgoing provisions not to apply to ships registered under Act X of 1841, navigated by Asiatic seamen and trading between Indian and Arabian Ports.*
18. *Licenses to procure seamen.*
19. *Penalties.*
20. *Penalty for receiving remuneration from seamen for shipping them.*
21. *Agreements with seamen.*
22. *For Foreign-going ships such agreements, except in special cases, to be made before and attested by a Shipping Master.*
23. *Foreign-going ships making short voyages may have running agreements.*
24. *Engagement and discharge of seamen in the meantime.*
25. *Fees to be paid on such running agreements.*
26. *In Home-trade ships agreement to be entered into before a Shiping Master or other witness.*
27. *Special agreements for Home-trade ships belonging to same owner.*
28. *Penalty for shipping seamen without agreement duly executed.*
29. *Changes in crew to be reported.*
30. *To prevent infraction of Act, Shipping Master may board vessels and muster seamen.*
31. *Production of agreements and certificates.*
32. *Rules as to production of agreements and certificates for Home-trade ships.*
33. *Alterations to be void unless attested to have been made with the consent of all parties.*
34. *Copy of agreement to be made accessible to crew.*
35. *Seamen discharged before voyage to have compensation.*
36. *Regulation of advances and advance-notes.*
37. *Advances irregularly or improperly made not to be a discharge of wages.*

* Acts XXVII. of 1861 and XV. 1863 are to be read as part of this Act.

38. Stipulations for allotment to be inserted in the agreement. Allotment-notes.

39. Owner, &c., to pay to Shipping Master the sums allotted. Suits on allotment-notes. Evidence.

40. Receipts and payments by Shipping Master on account of allotment-notes.

41. Discharge from Foreign-going ships to be made before Shipping Master.

42. Master to deliver account of wages.

43. On discharge, Masters to give seamen certificates of discharge, and return certificates of competency or service to mates.

44. Shipping Master may decide questions which parties refer to him. How award may be enforced.

45. Master and others to produce Ship's papers to Shipping Masters, and give evidence.

46. Settlement of wages.

47. Right to wages and provisions when to begin.

48. Seamen not to give up certain rights.

49. Wages not to be dependent on the earning of freight.

50. In case of death, such wages to be paid as after mentioned.

51. Rights to wages in case of termination of service by wreck or illness.

52. Wages not to accrue during refusal to work or imprisonment.

53. Period within which wages are to be paid.

54. What sum in the current coin of India shall be recovered by seaman under an agreement expressing his wages, &c., to be payable in a Foreign coin.

55. Seaman may sue summarily before any Magistrate for wages not exceeding 500 Rupees. Order of Magistrate to be final.

56. Levy of wages by distress.

57. No Suit for wages under 500 Rupees to be instituted in Admiralty Court, &c., except in certain cases.

58. Master to have same remedies for wages as seamen.

59. Master te take charge of effects of deceased seamen.

60. Effects and wages to ba paid to shipping Master with full accounts.

61. Penalties for not taking charge of or accounting for such monies and effects.

62. Wages and property of deceased seamen may be paid without probate.

63. Disposal of wages or effects of deceased seamen not claimed within one year. If subsequent claim be made thereto. Proviso.

64. Survey of provisions and water on complaint made.

65. Forfeiture for frivolous complaint.

66. Allowance for short or bad provisions.

67. Medicines, &c., to be provided and kept on board certain ships. Proviso.

68. Masters to keep weights and measures on board.

69. Expense of medical attendance and subsistence in case of illness, how to be defrayed.

70. Place to be appropriated.

71. Shipping Master, &c., may enter on board any ship and inspect provisions, &c., Procedure if provisions, &c., are found to be of a bad quality.

72. Seamen to be allowed to go ashore to make complaint to a Justice.

73. Sale of and charge upon wages to be invalid.

74. No debt exceeding three Rupees recoverable till end of voyage.

75. Penalty for overcharges by lodging-house-keepers.

76. Penalty for detaining seamen's effects.

77. Persons not to go on board before the final arrival of ship, without permission.

78. Penalty for solicitations by lodging-house-keepers.

79. Penalty for misconduct endangering ship or life or limb.

80. Admiralty Court in India may in certain cases remove Master and appoint a new Master.

81. Power to investigate cases of alleged incompetency and misconduct.

82. Local Government may cancel or suspend certificates in certain cases.

83. Offences of seamen and apprentices, and their punishments.

84. Entry of offences to be made in Official Log, and to be read over, or a copy given to the offender; and his reply, if any, to be also entered.

85. Seamen whom Masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.

86. Master or owner may apprehend deserters without warrant.

87. Deserters may be sent on board in lieu of being imprisoned.

88. Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

89. Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

90. Facilities for proving desertion so far as concerns forfeiture of wages.
91. Costs of procuring imprisonment may, to the extent of Thirty Rupees, be deducted from wages.
92. Amount of forfeiture how to be ascertained, when seamen contract for the voyage.
93. Application of forfeitures.
94. Questions of forfeitures may be decided in suits for wages.
95. Penalty for false statement as to last ship or name.
96. Fines to be deducted from wages, and paid to Shipping Master.
97. Penalty for enticing to desert, and for harbouring deserters.
98. Penalty for obtaining passage surreptitiously.
99. On change of Masters, documents hereby required shall be handed over by the old to the new Master.
100. Enquiry may be instituted in cases of wreck and casualty.
101. Investigation.
102. Report.
103. Official logs to be kept in sanctioned forms.
104. Entries to be made in due time.
105. Entries required in Official log.
106. Entries how to be signed.
107. Penalties in respect of Official Logs.
108. Entries in Official Logs to be received in evidence.
109. Official Logs to be delivered to Shipping Master on ship's arrival at Port of destination in India.
110. Official Logs to be transmitted to Shipping Master in case of transfer of ship, and in case of loss.
111. Depositions to be received in evidence when witnesses cannot be produced. Proviso.
112. Adjudication of offences and recovery of Penalties.
113. Wages, penalties, &c., payable by Master or Owner may be levied by distress of ship.
114. Act not to extend to ships belonging to Her Majesty or to any Foreign Prince or State. Nor (except certain Sections) to ships beloging to the subjects of any Foreign Prince or State.
115. Engagements between Masters of Foreign ships and lascars or native seamen.
116. Fees payable in respect of such engagements.
117. Penalty for Master of Foreign ship engaging native seaman otherwise than is allowed by two last preceding Sections. Shipping Master may board Foreign ships suspected of unlawfully shipping native seamen.
118. Interpretation "India." "Local Government." "Home-trade ship." "Foreign-going ship." "Master." "Seaman." Number. Gender. "Person."

An Act for the amendment of the law relating to Merchant Seamen.

WHEREAS the law for the registry of Seamen and the grant of Register Tickets has been found to be ineffective for the purposes intended ; and whereas by Section CCLXXXVIII of an Act of the Imperial Parliament called "The Merchant Shipping Act 1854," it is enacted that, "if the Governor-General of India in Council, or the respective Legislative Authorities in any British possession abroad, by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the Third Part of this Act contained, to any British ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates, and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, shall in respect of the ships and persons to which the same are applied be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted throughout Her Majesty's dominions, in the same manner as if such provisions had been hereby so adapted and applied, and such penalties and punishments had been hereby expressly imposed." And whereas it is expedient to discontinue the practice of registry and the grant of Register Tickets, and to apply to ships registered at, trading with, or being at any Port or place in India, certain provisions of the Third Part of the said Act with such adaptations and modification as are required, and for the purposes aforesaid to repeal the laws now in force in India relating to Merchant Seamen : It is enacted as follows :—

Acts repealed.

1. Act XXVII. of 1850 entitled "An Act for the registry of Merchant Seamen," and Act XXVIII of 1850 entitled "An Act for the encouragement of Merchant Seamen," are hereby repealed, except as to acts done and agreements made before the passing of this Act.

SHIPPING OFFICES.

Shipping Offices.

II. A Shipping Office shall be established at each of the Ports of Calcutta, Madras, and Bombay, and at such other Ports as the Governor-General of India in Council shall hereafter deem necessary. For every such Office there shall be a Superintendent, to be called a "Shipping Master," with such necessary Deputies, Clerks, and Servants, at such salaries, and subject to such regulations, as the local Government shall from time to time, with the sanction of the Governor-General of India in Council, direct and appoint. Every act done by or before any Deputy duly appointed shall have the same effect as if done by or before a Shipping Master.

Appointment, removal, and control of Shipping Master and their Deputies.

III. The local Government shall have power to appoint and remove such Shipping Masters and Deputies, who shall respectively be subject to the control of that Government or of any intermediate authority which it may appoint.

Business of Shipping Masters.

IV. It shall be the general business of Shipping Masters appointed under this Act, to superintend and facilitate the engagement and discharge of seamen in manner hereinafter mentioned, to provide means for securing the presence on board at the proper times of men who are so engaged, and to perform such other duties relating to merchant seamen and merchant ships as are hereby or under the said Merchant Shipping Act 1854, or as may hereafter under the powers herein contained, be committed to them. It shall also be the duty of Shipping Masters to give to all persons desirous of apprenticing boys to the sea-service, and duly authorized so to do by Act XIX of 1850 *(concerning the binding of apprentices)*, and also to Masters and Owners of ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprentice-ships.

Fees to be paid upon engagements and discharges.

V. Such fees, not exceeding the sums specified in the Table marked (A) in the Schedule to this Act, as are from time to time fixed by the local Government, shall be payable upon all engagements and discharges effected before Shipping Masters as hereinafter mentioned. Scales of the fees payable for the time being shall be conspicuously placed in the Shipping Offices; and all Shipping Mssters, their Deputies, Clerks, and Servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

Fees by whom to be paid, &c.

VI. Every Owner or Master of a ship, engaging or discharging any seaman in a Shipping Office or before a Shipping Master, shall pay to the Shipping Master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in the Table marked (B) in the Schedule hereto. Provided that, if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the Shipping Master in addition to such fee.

Penalty on shipping Master, &c., taking other remuneration.

VII. Any Shipping Master, Deputy Shipping Master, or any Clerk or Servant in any Shipping Office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant ship, excepting the lawful fees payable under this Act, shall for every such offence incur a penalty not exceeding Two Hundred Rupees, and shall also be dismissed from his office.

Buisness of shipping Office may be transacted at Custom House, or elsewhere.

VIII. The local Government may direct that, at any place at which no separate Shipping Office is established, the whole or any part of the business of the Shipping Office shall be conducted at the Custom House, or at the office of the Master Attendant or Harbour Master, or at such other office as the Government shall direct, and thereupon the same shall be there conducted accordingly; and in respect of such business such Custom House or office as aforesaid shall for all purposes be deemed to be a Shipping Office, and the Officer of Customs or other Officer there, to whom such business is committed, shall for all purposes be deemed to be a Shipping Master within the meaning of this Act.

EXAMINATIONS AND CERTIFICATES OF MASTERS AND MATES.*

Examinations.

IX. Examinations shall be instituted for persons who intend to become masters or mates of Foreign-going ships, or of Home-trade ships of a burden exceeding three hundred tons, or who wish to procure certificates of competency hereinafter mentioned.

Local Government to appoint examiners.

X. The local Government, or any Board or Officer duly authorized by the local Government in that behalf, shall from time to time nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination. The local Government may, with the sanction of the

Rules for conduct of examination.

* Sections IX. to XVI have been modified by XV. 1863.

Governor-General of India in Council, make rules for the conduct of such examinations and as to the qualifications to be required ; and such rules shall be strictly adhered to by all examiners. Fees at the following rates shall be paid by all applicants for examination :— Fees.

For a certificate as Master, ... 10 Rupees.
Ditto Ditto as Mate, ... 5 „

XI. The local Government, or such Board or Officer as aforesaid, shall deliver to every applicant who is reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, a Certificate (hereinafter called a "Certificate of Competency") to the effect that he is competent to act as master or mate of a Foreign-going ship or of a Home-trade ship of a burden exceeding three hundred tons, as the case may be. Certificates of competency.

XII. Certificates of service, differing in form from Certificates of competency, shall be granted as follows, (that is to say)— Certificates of service.

1.—Every person who, before the passing of this Act, has served as master in the British merchant service or as master of any Foreign-going ship registered under Act X. of 1841, or who has attained or shall attain the rank of Lieutenant, Master, passed Mate, or second Mate, or any higher rank, in the service of Her Majesty or of the East India Company, shall be entitled to a Certificate of Service as Master for Foreign-going ships.

2.—Every person who before the passing of this Act has served as mate in the British merchant service, or as mate of any such ship as aforesaid, shall be entitled to a Certificate of Service as mate for Foreign-going ships.

3.—Every person who, before the passing of this Act, has served as master or mate of a Home-trade ship of a burden exceeding three hundred tons, shall be entitled to a Certificate of Service as master or mate (according to such previous service) for such Home-trade ships.

And each of such certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered ; and the local Government, or such other authority as aforesaid, shall deliver such certificates of Service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

XIII. No Foreign-going ship or Home-trade ship of a burden exceeding three hundred tons, shall go to sea from any port in India, unless the Master and one officer besides the master have obtained and possess valid and appropriate Certificates either of competency or service under this Act or under the Merchant Shipping Act 1854 ; and whoever, having been engaged to serve as master or mate, goes to sea as aforesaid as such master or mate without being at the time entitled to and possessed of such a Certificate as herein before required, and whoever employs any person as such master or mate without ascertaining that he is at the time entitled to and possessed of such Certificate, shall for each such offence be liable to a penalty of Five Hundred Rupees. No Foreign-going ship or Home-trade ship above 300 tons to go to sea without certificated master & mate.

XIV. Every Certificate of Competency for a Foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a Home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last mentioned ship ; but no Certificate for a Home-trade ship shall entitle the holder to go to sea as master or mate of a Foreign-going ship. Certificates for Foreign-going available for Home-trade ships, but not *vice versa*.

XV. All Certificates, whether of competency or service, shall be made in duplicate ; and one part shall be delivered to the person entitled to the Certificate, and the other shall be kept and recorded as the local Government shall direct. A note of all orders made for cancelling, suspending, altering, or otherwise affecting any Certificate in pursuance of the powers herein contained, shall be entered in the Record of Certificates. Record of grants, cancellations &c., of Certificates.

XVI. Whenever any master or mate proves to the satisfaction of the local Government or such other authority as aforesaid, that he has, without fault on his part, lost or been deprived of any Certificate already granted to him, a copy of the Certificate to which by the record so kept as aforesaid he appears to be entitled, shall be delivered to him, and shall have all the effect of the original. Loss of certificate.

XVII. Repealed by Act XV. of 1863.

ENGAGEMENT OF SEAMEN.

XVIII. The local Government, or any Board or Officer duly authorized by the Local Government in that behalf, may grant to such persons as may be deemed fit, licenses to engage or supply seamen for merchant ships, to continue Licenses to procure seamen.

for such periods, to be upon such terms, and to be revocable upon such conditions as the Government thinks proper.

Penalties.

XIX. The following offences shall be punishable as hereinafter mentioned; (that is to say)—

(1.) If any person not licensed as aforesaid, other than the owner or master or mate of the ship, or some person who is *bonâ fide* the servant and in the constant employ of the owner, or a Shipping Master duly appointed as aforesaid, engages or supplies any seamen to be entered on board any ship, he shall for each seamen so engaged or supplied incur a penalty not exceeding One Hundred Rupees.

(2.) If any person employs any unlicensed person, other than persons so excepted as aforesaid, for the purpose of engaging or supplying any seaman to be entered on board any ship, he shall for each seaman so engaged or supplied incur a penalty not exceeding One Hundred Rupees, and, if licensed, shall in addition forfeit his license.

(3.) If any person knowingly receives or accepts to be entered on board any ship any seaman who has been engaged or supplied contrary to the provisions of this Act, he shall, for every seaman so engaged or supplied, incur a penalty not exceeding One Hundred Rupees.

Penalty for receiving remuneration from Seamen for shipping them.

XX. If any person demands or receives, either directly or indirectly, from any seaman, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorized, for providing him with employment, he shall for every such offence incur a penalty not exceeding Fifty Rupees, and, if licensed as aforesaid, shall in addition forfeit his license.

XXI. Repealed by Act XV. of 1863.

For Foreign-going ships such agreements, except in special cases, to be made before and attested by a Shipping Master.

XXII. In the case of all Foreign-going ships, in whatever part of Her Majestey's Dominions the same are registered, the following rules shall be observed with respect to agreements; (that is to say)—

1.—Every agreement made in any Port in India (except in such cases of agreements with substitutes as are hereafter specially provided for) shall be signed by each seaman in the presence of a Shipping Master.

2.—Such Shipping Master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.

3.—When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the Shipping Master, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the master.

4.—In the case of substitutes engaged in the place of seamen who have duly signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion or other unforeseen cause, the engagement shall, when practicable, be made before some Shipping Master duly appointed in the manner hereinbefore specified; and whenever such last mentioned engagement cannot be so made, the master shall, before the ship puts to sea if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.

Foreign going ships making short voyages may have running agreements.

XXIII. In the case of Foreign-going ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages, so that no such agreement shall extend beyond the next following 30th day of June or 31st day of December, or the first arrival of the ship at her port of destination in India after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other Foreign-going ships; and every person engaged thereunder, if discharged in any port in India, shall be discharged in the manner hereby required for the discharge of seamen belonging to other Foreign-going ships,

Engagement and discharge of Seamen in the meantime.

XXIV. The master of every Foreign-going ship for which such a running agreement as aforesaid is made ahall, upon every return to any port in India before the final termination of the agreement, discharge or engage before the Shipping Master at such port any seaman whom he is required by law so to discharge or engage; and shall upon every such return endorse on the agreement a statement, (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required;

and shall deliver the agreement so endorsed to the shipping Master; and any master who wilfully makes a false statement in such endorsement shall incur a penalty not exceeding Two Hundred Rupees; and the Shipping Master shall also sign an endorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so endorsed to the master.

Fees to be paid on running agreements.

XXV. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to Foreign-going ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

In Home-trade ships agreement to be entered into before a Shipping Master or other witness.

XXVI. In the case of Home-trade ships of a burden exceeding three hundred tons, crews or single seamen may, if the master thinks fit, be engaged before a Shipping Master in the manner hereinbefore directed with respect to Foreign-going ships; and in every case in which the engagement is not so made, the master shall, before the ship puts to sea if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness who shall attest his signature.

Special agreements for Home-trade ships belonging to same owner.

XXVII. In cases where several Home-trade ships belong to the same owner, the agreement with the seamen may, notwithstanding anything herein contained, be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; but, with the foregoing exception, all provisions herein contained which relate to ordinary agreements for Home-trade ships shall be applicable to agreements made in pursuance of this Section.

Penalty for shipping seamen without agreement duly executed.

XVIII. If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the master shall for each such offence incur a penalty not exceeding Fifty Rupees.

Changes in crew to be reported.

XXIX. The master of every Foreign-going ship, of which the crew has been engaged before a Shipping Master, shall, before finally leaving India, sign and send to the nearest Shipping Master a full and accurate statement, in a form sanctioned by the Governor General of India in Council, of every change which takes place in his crew before finally leaving India, and in default shall for each offence incur a penalty not exceeding Fifty Rupees; and such statement shall be admissible in evidence subject to all just exceptions.

Shipping Master may board vessels and muster seamen.

XXX. For the purpose of preventing any seamen from being shipped at any port in India contrary to the provisions of this Act, the Shipping Master by himself or his Deputy may enter at any time on board any ship upon which he shall have reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein; and any person who shall obstruct the said Shipping Master or Deputy in such duty shall be liable to a penalty not exceeding One Hundred Rupees.

Production of agreements and certificates.

XXXI. The following rules shall be observed with respect to the production of Agreements and Certificates of Competency or Service for Foreign-going ships (that is to say)—

1. The master of every Foreign-going ship shall, on signing the Agreement with his crew, produce to the Shipping Master before whom the same is signed, the Certificates of Competency or Service which the said master and his mate are hereby required to possess; and upon such production being duly made, and the Agreement being duly executed as hereby required, the Shipping Master shall sign and give to the master a certificate to that effect.

2. In the case of running agreements for Foreign-going ships, the Shipping Master shall, before the second and every subsequent voyage made after the first commencement of the Agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such Agreements, and producing to the Shipping Master the Certificate of Competency or Service of any mate then first engaged by him, a certificate to that effect.

3. The master of every Foreign-going ship shall, before proceeding to sea, produce the certificate so to be given to him by the Shipping Master as aforesaid to the Collector of Customs, or if there be no Collector of Customs, to the Officer whose duty it is to grant a Port Clearance. No Officer of Customs or other Officer shall clear any such ship outwards without such production; and if any such ship attempts to go to sea without a clearance, any such Officer may detain her until such certificate as aforesaid is produced.

4. The master of every Foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in India, or upon the discharge of the crew, whichever first happens, deliver such Agreement to a Shipping Master at the place; and such Shipping Master shall thereupon give to the master a certificate of such delivery; and no Officer of Customs or other Officer shall clear any Foreign-going ship inwards without the production of such certificate.

And if the master of any Foreign-going ship fails to deliver the Agreement to a Shipping Master at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding Fifty Rupees.

Rules as production of agreements and certificates for Home trade ships.

XXXII. The following rules shall be observed with respect to the production of Agreements and Certificates of Competency or Service for Home-trade ships of a burden exceeding three hundred tons, (that is to say)—

1.—No such Agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her final port of destination in India after such date, or the discharge of cargo consequent upon such arrival.

2.—The master or owner of every such ship shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the Ship is not at any port in India within twenty-one days after either the thirtieth day of June or the thiry-first day of December in any year) within forty-eight hours after her next arrival at any port in India, transmit or deliver to some Shipping Master in India every Agreement made within the six calendar months next preceding such days respectively, and shall also produce to the Shipping Master the Certificate of Competency or Service which the said master and his mate are hereby required to possess.

3.—The Shipping Master shall thereupon give to the master or owner a certificate of such delivery and production; and no Officer of Customs or other Officer authorized to grant a Port Clearance shall grant a clearance for any such ship without the production of such certificate; and if any such ship attempts to go to sea without such clearance, any such Officer may detain her until the said certificate is produced.

And if the agreement for any Home-trade ship is not delivered or transmitted by the master or owner to a Shipping Master at the time and in the manner hereby directed, such master or owner shall for every default incur a penalty not exceeding Fifty Rupees.

Alterations to be void unless attested.

XXXIII. Every erasure, interlineation, or alteration in any such Agreement with seamen as is required by this Act (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration by the written attestation (if made in Her Majesty's dominions) of some Shipping Master, Justice, Officer of Customs, or other public functionary, or (if made out of Her Majesty's dominions) of a British Consular Officer, or where there is no such Officer, of two respectable British Merchants.

Copy of agreement to be made accessible to crew.

XXXIV. The master shall, at the commencement of every voyage or engagement, cause a legible copy of the Agreement, and if necessary a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence incur a penalty not exceeding Fifty Rupees.

Seamen discharged before end of voyage to have compensation.

XXXV. Any seaman who has signed an Agreement, and is afterwards discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the Court or Magistrate hearing the case deems satisfactory, of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

REGULATION OF ADVANCES.

Regulation of advances and advance-notes.

XXXVI. No advance of wages shall be made or advance-note given to any person but the seaman himself; and no advance of wages shall be made or advance-note given for any greater sum than the amount of one month's wages, nor unless the agreement contains a stipulation for the same and an accurate statement of the amount thereof, and no advance-note shall be given to any seaman who signs the Agreement before a Shippiag Master, unless in the presence of such Shipping Master.

XXXVII. If any advance of wages is made or any advance-note given to any seamen in any such manner as to constitute a breach of any of the above provisions, the wages of such seaman shall recoverable by him as if no such advance had been made or advance-note given, and in the case of any advance-noe so given, no person shall be sued thereon under the provisions hereinafter contained, unless he was in person or by his agent a party to the irregular or improper manner of giving the same.

Advance irregularly made not to be a discharge of wages.

ALLOTMENT OF WAGES.

XXXVIII. All stipulations for the allotment of any part of the wages of a seaman during his absence, which are made at the commencement of the voyage shall be inserted in the Agreement, and shall state the amounts and times of the payments to be made. All allotment-notes shall be in forms sanctioned by the Local Government, and shall be made for the benefit only of a relative of the seaman or some member of his family to be named in the note, and shall be payable to the shipping Master on account of such relative of the seaman or member of his family. Such allotment shall not in any case exceed one-third of the wages of the seaman.

Stipulations for allotment to be inserted in the agreement. Allotment-notes.

XXXIX. The Owner or any Agent who has authorized the drawing of an allotment-note shall pay to the Shipping Master on demand the sums allotted by the note, when and as the same are made payable, unless the seaman is shown in manner hereinafter mentioned to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid; and in the event of such sums not being paid to the Shipping Master on demand, the Shipping Master may sue for and recover them with costs. The seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the Court or Magistrate, either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Act is required, or by a duly certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the Master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate trying the case considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Owner, etc., to pay to Shipping Master the sums allotted. Suits on allotment notes. Evidence.

XL. The Shipping Master, on receiving any such sum as aforesaid, shall pay it over to the person named in the allotment-note. All such receipts and payments shall be entered in a book, and all entries in the said book shall be authenticated by the signature of the Shipping Master or his Deputy; and the said book shall be at all times open to the inspection of the parties concerned.

Receipts and payments on account of allotment-notes.

DISCHARGE AND PAYMENT OF WAGES.

XLI. All seamen discharged from any Foreign-going ship at any port in India, in whatever part of Her Majesty's dominions the ship is registered, shall be discharged and receive their wages in the presence of a Shipping Master duly appointed under this Act, except in cases where some competent Court otherwise directs; and any master or owner of any such ship who discharges any seamen belonging thereto, or except as aforesaid pays his wages, in any other manner, shall incur a penalty not exceeding One Hundred Rupees; and in the case of Home-trade ships of a burden exceeding three hundred tons, seamen may, if the owner or master so desires, be discharged and receive their wages in like manner.

Discharge from Foreign-going ships to be made before shipping Master.

XLII. Every Master shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or if he is to be discharged before a Shipping Master to such Shipping Master, a full and true account, in a form sanctioned by the local Government, of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding Fifty Rupees; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered; and the Master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to such payments.

Master to deliver account of wages.

XLIII. Upon the discharge of any seaman or upon payment of his wages, the Master shall sign and give him a Certificate of his Discharge, in a form sanctioned by the local Government, specifying the period of his service and the time and place of his discharge; and if any master fails to sign and give to any such seaman such Certificate of Discharge, he shall for each such offence incur a penalty not exceeding One Hundred Rupees; and the master shall also upon the

On discharge, masters to give seamen Certificates of Discharge, and return Certificates of Competency or Service to mates.

discharge of every certificated mate whose Certificate of Competency or Service has been delivered to and retained by him, return such certificate, and in default incur a penalty not exceeding Two Hundred Rupees.

Shipping Master may decide questions which parties refer to him. How award may be enforced.

XLIV. Every Shipping Master shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall in any legal proceeding which may be taken in the matter before any Court or Magistrate, be deemed to be conclusive as to the rights of the parties; and any document purporting to be such submission or award shall be *primâ facie* evidence thereof. An award made by a Shipping Master under this Section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under the provision of Section LV.

Master and others to produce ship's papers to Shipping Masters and give evidence.

XLV. In any proceeding relating to the wages, claims, or discharge of any seaman carried on before any Shipping Master under the provisions of this Act, such Shipping Master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log-books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons, being then at or near the place, on any such matter; and every owner, agent, master, mate, or other member of the crew, who, when called upon by the Shipping Master, does not produce any such paper or document as aforesaid if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding Fifty Rupees.

Settlement of wages.

XLVI. The following rules shall be observed with respect to the settlement of wages, (that is to say)—

1.—Upon the completion before a Shipping Master of any discharge and settlement, the master or owner and each seaman shall respectively, in the presence of the Shipping Master, sign, in a form sanctioned by the local Government, a mutual release of all claims in respect of the past voyage or engagement, and the Shipping Master shall also sign and attest the release and shall retain the same.

2.—Such release so signed and attested sholl operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

3.—A copy of such release, certified under the hand of such Shipping Master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy.

4.—In cases in which discharge and settlement before a Shipping Master are hereby required. no payment, receipt, settlement, or discharge otherwise made shall operate or be admitted as evidence of the release or satisfaction of any claim.

5.—Upon any payment being made by a master before a Shipping Master, the Shipping Master shall, if required, sign and give to such master a statement of the whole amount so paid, and such statement shall, as between the master and his employer, be received as evidence that he has made the payments therein mentioned.

LEGAL RIGHTS TO WAGES.

Right to wages and provisions when to begin.

XLVII. A seaman's right to wages and provisions shall be taken to commence, either at the time at which he commences work, or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Seamen not to give up certain rights.

XLVIII. No seaman shall by any agreement forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provisions of this Act, and every stipulation by which any seaman consents to abandon his rights to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

Wages not to be dependent on the earning of freight.

XLIX. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice, who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned; but, in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo, and stores shall bar his claim.

L. If any seaman or apprentice to whom wages are due under the last preceding Section dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage.

In case of death, such wages to be paid as after mentioned.

LI. In cases where the service of any seaman terminates before the period contemplated in the Agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid by reason of his being left on shore at any place abroad under a certificate of his unfitness or inability to proceed on the voyage granted under the provisions of the Merchant Shipping Act 1854, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

Rights to wages in case of termination of service by wreck or illness.

LII. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the Agreement for his beginning work; nor, unless the Court or Magistrate hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Wages not to accrue during refusal to work or imprisonment.

LIII. The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered, or within five days after the seaman's discharge whichever first happens; and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him; and every master or owner, who neglects or refuses to make payment in manner aforesaid without sufficient cause, shall pay to the seaman a sum not exceeding the amount of two days' pay, for each of the days not exceeding ten days during which payment is delayed beyond the respective periods aforesaid; and such sum shall be recoverable as wages.

Period within which wages are to be paid.

LIV. When any monies are payable in India to any seaman or apprentice for wages or otherwise under any Agreement wherein such monies are expressed to be payable in some denomination of coin other than the current coin of the port or place wherein the same have become payable, the seaman or apprentice shall be entitled to demand and recover, in the current coin of such Port or place, the amount due to him estimated according to the established par value of the coin wherein the same is so expressed to be payable.

What sum in the coin of India shall be recovered by seaman for wages, &c., payable in a Foreign coin.

MODE OF RECOVERING WAGES.

LV. Any seaman or apprentice or any person duly authorized on his behalf may sue, in a summary manner, before any Magistrate acting in or near to the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, for any amount of wages due to such seaman or apprentice not exceeding five hundred Rupees. Every order made by such Magistrate in the matter shall be final.

Seaman may sue summarily before any Magistrate for wages not exceeding 500 Rupees.

LVI. When an order for the payment of wages is made by a Magistrate under the last preceding Section, and the wages are not paid at the time and in the manner prescribed, the sum mentioned in the order, with such further sum as may be thereby awarded for costs, shall be levied by distress and sale of the goods and chattels of the person directed to pay the same, under a warrant to be issued for that purpose by the Magistrate.

Levy of wages by distress.

LVII. No suit or proceeding for the recovery of wages under the sum of five hundred Rupees shall be instituted by or on behalf of any seamen or apprentice in any Court of Admiralty or Vice-Admiralty, or in any Court of Civil Judicature other than the Court of Small Causes, where such Court exists, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such Court, or unless the Magistrate, acting under the authority of this Act, refers the case to be adjudged by such Court.

No suit for wages under 500 Rupees to be instituted in Admiralty Court, &c., except in certain cases.

LVIII. Every master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages, which by this Act or by any law or custom any seaman, not being a master, has for the recovery of his wages; and if, in any proceeding in any Court of Admiralty or Vice-Admiralty touching the claim of a master to wages, any right of set-off or counter-claim is set up, it shall be lawful for such Court to enter into and adjudicate upon all questions and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

Master to have same remedies for wages as seamen.

WAGES AND EFFECTS OF DECEASED SEAMEN.

LIX. Whenever a seaman or apprentice, on a voyage which is to terminate at any port in India, dies during such voyage, the master shall take charge of all money, clothes and effects which he leaves on board, and shall enter in the official

Master to take charges of effects of deceased seamen.

log-book a statement of the amount of money and a description of the effects left by the deceased, and in case of a sale of such effects, the sum received for each article sold.

Effects and wages to be paid to Shipping Master with full accounts.

LX. The master shall, within forty-eight hours after his arrival at his port of destination in India, deliver any such effects as aforesaid, and pay any money which he has taken charge of or received, and also the wages due to deceased, to the Shipping Master at such port, and shall give to such Shipping Master an account of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed, unless verified, if there is an official log-book, by the entry therein hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the Shipping Master to whom the account is rendered.

Penalties for not taking charge of or accounting for such monies and effects.

LXI. If the master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to make such payment or delivery, or to give such account as hereinbefore respectively directed, he shall be accountable for the money, wages, and effects of the seamen or apprentice to the Shipping Master as aforesaid, and shall pay and deliver the same accordingly: and such master shall in addition incur a penalty not exceeding treble the value of the money or effects, or if such value is not ascertained, not exceeding five hundred Rupees. All money, wages, and, effects of any seaman or apprentice dying during a voyage shall be recoverable in the same Courts, and by the same modes of proceeding, by which seamen are hereby enabled to recover wages due to them.

Wages and property of deceased seamen may be paid without probate.

LXII. When money or effects left by or due to any deceased seaman or apprentice are paid or delivered to a Shipping Master, then, subject to such deductions for expenses incurred in respect of the seaman or apprentice, or of his said money and effects, as the Shipping Master thinks proper to allow, the Shipping Master may pay and deliver the said money and effects to any claimants who can prove themselves to the satisfaction of the said Shipping Master to be entitled thereto, and the said Shipping Master shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered; or, if he think fit so to do, the Shipping Master may require probate or letters of administration or a certificate under Act XX of 1841 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*) to be taken out, and thereupon pay and deliver the said money and effects to the legal representative of the deceased.

Disposal of wages or effects of deceased seamen not claimed within one year, if subsequent claim be made thereto. Proviso.

LXIII. In cases of wages, or effects of deceased seamen or apprentices received by any Shipping Master to which no claim is substantiated within one year from the receipt thereof by such Shipping Master, it shall be the duty of the Shipping Master to cause such effects to be sold, and to pay the proceeds of the sale and the unclaimed wages into the Public Treasury. If any subsequent claim is made to such money and is established to the satisfaction of the Shipping Master, the amount, or so much as shall appear to be due to the claimant, shall be paid out of the Public Treasury. If the claim is not established to the satisfaction of the Shipping Master, the claimant may apply by petition in a summary way to the Supreme Court of Judicature of the Presidency, or in any Station of the Settlement of Prince of Wales Island, Singapore, and Malacca, to the Court of Judicature there, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just. Provided that, after the expiration of six years from the receipt of such wages or effects by the Shipping Master, no such claim shall be entertained without the sanction of the Local Government.

PROVISIONS, HEALTH, AND ACCOMMODATION.

Survey of provisions and water on complaint made.

LXIV. Any three or more of the crew of any ship registered at, trading with, or being at any port or place in India, may complain to any Shipping Master or other Officer duly appointed in this behalf by the local Government, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such Officer may thereupon examine the said provisions or water, or cause them to be examined; and if, on examination, such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signfy the same in writing to the master of the ship: and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not exceeding Two Hundred Rupees; and upon every

such examination as aforesaid, the Officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall send a report thereof to the Shipping Master, and such report, if produced out of the custody of such Shipping Master, shall be received in evidence in any legal proceeding.

Forfeiture for frivolous complaint.

LXV. If the Officer, to whom any such complaint as last aforesaid is made, certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Allowance for short or bad provisions.

LXVI. In the following cases (that is to say)—

1. If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulations for reduction by way of punishment contained in the Agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore);

2. If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;

The seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages, (that is to say)—

(1.) If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman.

(2.) If his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman.

(3.) In respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

But if it is shown to the satisfaction of the Court or Magistrate trying the case, that any provisions, the allowance of which has been reduced, could not be procured, or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, such Court or Magistrate shall take such circumstances into consideration and shall modify or refuse compensation as the justice of the case may require.

Medicines, etc., to be provided and kept on board certain Ships.

LXVII. All Foreign-going ships, and all Home-trade ships of a burden exceeding three hundred tons, shall have always on board a sufficient supply of medicines and appliances, suitable for diseases and accidents likely to happen on a sea voyages, according to such scale as shall be from time to time issued by the local Government with the approval of the Governor General of India in Council, and published at Calcutta, Madras, and Bombay in the Government Gazettes, and in the Straits Settlements in such manner as the Governor shall notify, and in default thereof, the owner or master of every such ship shall be liable to a penalty not exceeding Two Hundred Rupees. Provided, however, that this Section shall not apply to ships navigating from the United Kingdom and coming within the provisions of Section CCXXIV of the Merchant Shipping Act 1854.

Masters to keep weights and measures on board.

LXVIII. Every master shall keep on board proper weights and measures for the purposes of determining the quantities of the several provisions and articles served out, and shall allow the same to be used, at the time of serving out such provisions and articles, in the presence of a witness whenever any dispute arises about such quantities, and in default shall for every offence incur a penalty not exceeding One Hundred Rupees.

Expense of medical attendance and subsistence in case of illness how to be defrayed.

LXIX. Whenever the master or any seaman of any ship registered at any place in India shall receive any hurt or injury in the service of the vessel, the expense of providing the necessary surgical and medical advice and attendance with medicines, and of his subsistence, until he shall be cured or shall be brought back to the port from which he was shipped, or other port agreed upon, shall be defrayed, with the cost of his conveyance to such port, by the owner of the vessel without any deduction on that account from the wages of such master, officer, or seaman; and if paid by himself, may be recovered as part of his wages; and if paid or allowed out of any monies forming part of the Revenues of India, shall be a charge upon the ship, and may be recovered with full costs of suit by the Secretary of State in Council.

Place to be appropriated to seamen.

LXX. A place or places of shelter shall be provided below a well caulked and substantial deck for the men engaged under this Act; such place or places shall be so arranged as to allow for the men the following spaces:—

1.—For each European seaman or apprentice or other person shipped on the same footing as an European seaman, nine superficial feet if the place be not less than six feet in height from deck to deck; or fifty-four cubic feet if the height from deck to deck be less than six feet.

2.—For each lascar or native seaman or other person shipped on the same footing as a lascar, four superficial feet; and if the place allotted be under the top-gallant forecastle, such forecastle deck shall be not less than four feet six inches above the one below it.

Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage; and, if any such place in any ship is not in the whole sufficiently large to give such space for each seaman and apprentice as hereinbefore required, or is not properly caulked and in all other respects securely and properly constructed and well ventilated, the owner shall, for every such failure to comply with the provisions of this Section, incur a penalty not exceeding Two Hundred Rupees; and if any such space as aforesaid is not kept free from goods and stores as aforesaid, the master shall, for every such failure to comply with the provisions of this Section, incur a penalty not exceeding One Hundred Rupees.

Shipping Master, &c., may enter any ship and inspect provisions, etc.

LXXI. The Shipping Master at any port in India, by himself or his Deputy may enter at any time on board of any ship upon which seamen have been shipped at such port, and inspect the provisions and water provided for the use of the crew, and the medicines and appliances and the accommodation for seamen prescribed by this Act or by the Merchant Shipping Act 1854. If on inspection the provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the Shipping Master shall proceed as provided in Section LXIV of this Act, and the penalty prescribed in the said Section shall be incurred by any default of the master of the ship in respect of such provisions or water.

POWER OF MAKING COMPLAINTS.

Seamen to be allowed to go ashore to make complaint to a Justice.

LXXII. If any seaman or apprentice, whilst on board any ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the said master shall, if the ship is then at a place where there is a Magistrate, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding One Hundred Rupees.

PROTECTION OF SEAMEN FROM IMPOSITION.

Sale of and charge upon wages to be invalid.

LXXIII. No wages due or accruing to any seaman or apprentice shall be subject to attachment from any Court; and every payment of wages to a seaman shall be valid in law, notwithstanding any previous sale or assignment of such wages or of any incumbrance thereon; and no assignment or sale of such wages, or of salvage made prior to the accuring thereof, shall bind the party making the same; and no power of attorney, or authority for the receipt of any such wages or salvage shall be irrevocable.

No debt exceeding three Rupees recoverable till end of voyage.

LXXIV. No debt exceeding in amount three Rupees, incurred by any seaman after he has engaged to serve, shall be recoverable until the service agreed for is concluded.

Penalty for overcharges by lodging-house-keepers.

LXXV. If any person demands or receives from any seamen or apprentice payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding One Hundred Rupees.

Penalty for detaining seamen's effects.

LXXVI. If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall incur a penalty not exceeding One Hundred Rupees; and any Magistrate may, besides inflicting such penalty by summary order, direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

Persons to go on board before the final arrival of ship without permission.

LXXVII. Every person who, not being in the service of Her Majesty and not being duly authorized by law for the purpose, goes on board any ship about to arrive at the place of her destination before her actual arrival at the place of her discharge, without the permission, of the master, shall for every such offence incur a penalty not exceeding Two Hundred Rupees; and the master or person in charge of such ship may take any such person so going on board as aforesaid into

custody, and deliver him up forthwith to any Police Officer, to be by him taken before a Magistrate to be dealt with according to the provisions of this Act.

Penalty for solicitations by lodging-house-keepers.

LXXVIII. If, within twenty-four hours after the arrival of any ship at any port in India, any person then being or board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence incur a penalty not exceeding Fifty Rupees.

DISCIPLINE.

Penalty for misconduct endangering ship or life or limb.

LXXIX. Any master of, or any seaman or apprentice belonging to any ship registered at, trading with, or being at any port or place in India, who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be liable to imprisonment, with or without hard labor, for a term not exceeding two years.

Admiralty Court in India may in certain cases remove master and appoint a new master.

LXXX. Any Court having Admiralty Jurisdiction in India may, upon application by the owner of any ship being within the jurisdiction of such Court, or by the part owner or consignee, or by the agent of the owner, or by any certificated mate, or by one-third or more of the crew of such ship, and upon proof on oath to the satisfaction of such Court that the removal of the master of such ship is necessary, remove him accordingly ; and may also, with the consent of the owner of his agent or the consignee of the ship, or, if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the Court, then without such consent, appoint a new master in his stead, and may also make such order and may require such security in respect of costs in the matter as it thinks fit.

Section 4 XXXI.—LXXXII. repealed by Act XV. of 1863.

Offences of seamen and apprentices, and their punishments.

LXXXIII. Whenever any seaman who has been lawfully engaged, or any apprentice to the sea-service, commits any of the following offences, he shall be liable to be punished summarily as follows ; (that is to say)—

Desertion.

1. For desertion he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also, if such desertion takes place at any port or place not in India, at the discretion of the Court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to any port or place in India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts, to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him.

Absence without leave.

2. For neglecting or refusing, without reasonable cause, to join his ship or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port, either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship, or from his duty, not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labor, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding the amount of two day's pay, and in addition for twenty-four hours of absence either a sum not exceeding six day's pay, or any expenses which have been properly incurred in hiring a substitute.

Quitting ship before she is moored.

3. For quitting the ship without leave after her arrival at her Port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay.

Disobedience.

4. For wilful disobedience to any lawful command be shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labor, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding two day's pay.

Continued Disobedience.

5. For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor, and also at the discretion of the Court, to forfeit for every twenty.four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay or any expenses which have been properly incurred in hiring a substitute.

Assault on master or mate.

6. For assaulting any master or mate he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Conspiracy.

7. For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Embezzlement of cargo.

8. For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the Court, to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Smuggling.

9. For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.

Entry of offences to be made in official log, and to be read over, or a copy given to the offender; and his reply, if any, to be also entered.

LXXXIV. Upon the commission of any of the offences enumerated in the last preceding Section, an entry thereof shall be made in the official log-book, and shall be signed by the master and also by the mate or one of the crew; and the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof, the Court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Seaman whom masters of ships are compelled to convey and persons going in ships without leave, to be subject to penalties for breach of discipline.

LXXXV. Every seafaring person whom the master of any ship is, under the authority of this Act, or any law, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishment for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Master or owner &c., may apprehend deserters without warrant.

LXXXVI. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join, or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, with or without the assistance of Police Officers, who are hereby directed to give the same if required, apprehend him without first procuring a warrant; and thereupon in any case, and shall, in case he so requires and it is practicable, convey him before some Court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such Court, detain him in custody for a period not exceeding twenty-four hours, or such shorter time as may be necessary, or may, if he does not so require, or if there is no such Court at or near the place, at once convey him on board; and if any such apprehension appears to the Court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee, who makes the same, or causes the same to be made, shall incur a penalty not exceeding two hundred Rupees; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

Deserters may be sent on board in lieu of being imprisoned.

LXXXVII. Whenever any seaman or apprentice is brought before any Court on the ground of his having neglected or refused to join, or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such Court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence, to be paid by the offender, and if necessary to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Seamen imprisoned for breach of discipline may be sent on board before termination of sentence.

LXXXVIII. If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join, or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

LXXXIX. In all cases of desertion from any ship registered at a port or place in India while such ship is at any place out of India, the master shall produce the entry of such Desertion in the official log-book to the person or persons required by the Merchant Shipping Act 1854 to endorse on the agreement a Certificate of such Desertion; and such person or persons shall thereupon make and certify a copy of such entry, and also a copy of the said Certificate of Desertion; the master shall forthwith transmit such copies to the Shipping Master at the port where such seaman was engaged, who shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, shall in any legal proceeding relating to such desertion be received as evidence of the entries therein appearing.

Facilities for proving desertion so far as concerns forfeiture of wages.

XC. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate at any port or place in India, and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log-book: and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained be deemed to be proved, unless the seaman or apprentice can produce a proper Certificate of discharge, or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

Cost of procuring imprisonment may, to the extent of 30 Rupees, be deducted from wages.

XCI. Whenever in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has in the course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefore by imprisonment or otherwise, the Court hearing the case may direct a part of the wages due to such seaman, not exceeding thirty Rupees, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment.

Amount of forfeiture how to be ascertained when seamen contract for the voyage, &c.

XCII. Whenever any seaman contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Application of forfeitures.

XCIII. All clothes, effects, wages, and emoluments which under the provisions hereinbefore contained are forfeited for desertion, shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place, and may, if earned subsequently to the desertion, be recovered by such master or by the owner or his agent in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages, the Court may order the same to be paid accordingly; and, subject to such reimbursement, the same shall be paid into the Public Treasury and carried to the amount of Government; and in all other cases of forfeiture of wages under the provisions hereinbefore contained, the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

Questions of forfeitures may be decided in suits for wage.

XCIV. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any Criminal proceeding.

Penalty for false statement as to last ship or name.

XCV. If any seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship, or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding fifty Rupees, and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.

Fines to be deducted from wages, and paid to Shipping Master.

XCVI. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log-book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act; and such fine shall be deducted and paid over as follows (that is to say), if the offender is discharged at any port or place in India, and the offence and such entries in respect thereof as aforesaid, are proved, in the case of a Foreign-going ship to the satisfaction of the Shipping Master before whom the offende is discharged and in the case of a Home-trade ship to the satisfaction of the Shipping Master at or nearest to the place at which at which crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such Shipping Master; and if before the final discharge of the crew in India, any such offender as aforesaid enters into any of Her Majesty's ships or is discharged at any place not in India, and the offence and such entries as aforesaid are proved to the satisfaction of the Officer in command of the ship into which he so enters or of the Consular Officer, Officer of Customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such Officer or other person; and on the return of the ship to India, the master or owner shall pay over such fine, in the case of Foreign-going ships to the Shipping Master before whom the crew is discharged, and in the case of Home-trade ships to the Shipping Master at or nearest to the place at which the crew is discharged; and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him: Provided that no act of misconduct for which any such fine as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Act.

Penalty for enticing to desert and harbouring deserters.

XCVIII. Every person who by any any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding One Hundred Rupees; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join, or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted incur a penalty not exceeding One Hundred Rupees.

Penalty for obtaining passage surreptitiously.

XCVII. Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding Two Hundred Rupees, or be liable to imprisonment, with or without hard labor, for any period not exceeding four weeks.

On charge of masters, documents to be handed over to successor.

XCIX. If during the progress of a voyage the master of any ship registered at any port or place in India is superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof, which are in his custody; and shall in default incur a penalty not exceeding One Thousand Rupees; and such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.

ENQUIRIES INTO WRECKS.

Enquiry may be instituted in cases of wreck and casualty.

C. In any of the cases following (that is to say)—

Whenever any ship is lost, abandoned, or materially damaged on or near the costs of India.;

Whenever any ship causes loss or material damage to any other ship on or near such coasts;

Whenever, by reason of any casualty happening to or on board of any ship on or near such coasts, loss of life ensues ;

Whenever any such loss, abandonment, damage, or casualty happens elsewhere to or on board any ship registered at any port or place in India, under the Merchant Shipping Act 1854 or under Act X of 1841—

It shall be the duty of any European Civil Officer of Government residing at or near the place where such loss, abandonment, damage, or casualty occurred if the same occurred in India, but if elsewhere, at or near the place where such witnesses as aforesaid arrive or are found, to give notice of the same to the local Government. It shall be lawful for the local Government, whether such notice be given or not, if a formal investigation appears to it to be requisite or expedient, to appoint two persons to make the same. The investigation shall be held at such place as the local Government shall deem best for the convenient examination of the witnesses. One of the persons to be so appointed shall be a Magistrate acting in or near the place where the investigation is held : the other may be any person conversant with maritime affairs.

Investigation.

CI. The person appointed shall proceed to make the investigation, and shall for that purpose, so far as relates to compelling the attendance of witnesses and the regulation of the proceedings, have the same powers as if the same were a proceeding relating to an offence or cause of complaint upon which such Magistrate has power to convict summarily, or as near thereto as circumstances admit.

Report.

CII. Upon the conclusion of the case the persons appointed to investigate shall send a report to the local Government, containing a full statement of the case and of their opinion thereon, accompanied by such report of or extracts from the evidence and such observations (if any) as they may think fit.

OFFICIAL LOGS.

Official logs to be kept in forms sanctioned by local Government.

CIII. An official log-book of every ship registered at any port or place in India, except Home-trade ships of a burden not exceeding three hundred tons, shall be kept in a form sanctioned by the local Government ; and such official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log or united therewith, so that in all cases all the blanks in the official log be duly filled up.

Entries to be made in due time.

CIV. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates shall be made and dated so as to show the date of the occurrence, and of the entry respecting it ; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final Port of discharge be made more than twenty-four hours after such arrivals

Entries required in official log.

CV. Every master of a ship for which an official log-book is hereby required shall make or cause to be made therein entries of the following matters, (that is to say)—

1. Every legal conviction of any member of his crew and the punishment inflicted:

2. Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry and concerning the reply (if any) made to the charge, as hereinbefore required:

3. Every offence for which punishment is inflicted on board and the punishment inflicted:

4. A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars:

5. Every case of illness or injury happening to any member of the crew with the nature thereof, and the medical treatment adopted (if any):

6. Every case of death happening on board, and the cause thereof:

7. Every birth happening on board with the sex of the infant and the names of the parents:

8. Every marriage taking place on board with the names and ages of the parties:

9. The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof.

10. The amount of wages due to any seaman who enters Her Majesty's service during the voyage :

11. The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom :

12. The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it.

13. Every collision with any other ship and the circumstances under which the same occurred.

Entries how to be signed.

CVI. The entries hereby required to be made in official log-books shall be signed as follows, (that is to say), every such entry shall be signed by the master and by the mate or some other of the crew, and every entry of illness, injury, death, or birth shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies, shall be signed by the master and by the mate and some other member of the crew, and every entry of wages due to any seaman who enters Her Majesty's service shall be signed by the master and by the seaman, or by the officer authorized to receive the seaman into such service.

Penalties in respect of official logs.

CVII. The following offences in respect of official log-books shall be punishable as hereinafter mentioned, (that is to say)—

1. If in any case an official log-book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log-book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding fifty Rupees.

2. Every person who makes or procures to be made or assists in making any entry in an official log-book, in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge in India, more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding Three Hundred Rupees.

3. Every person who wilfully destroys or mutilates or renders illegible an entry in any official log-book, or who wilfully makes, or procures to be made or assists in making, any false or fraudulent entry or omission in any such log-book, shall for each such offence be liable to imprisonment, with or without hard labor, for a term not exceeding one year.

Entries in official logs to be received in evidence.

CVIII. All entries made in any official log-book as hereinbefore directed shall be received in evidence in any proceeding in any Court of Justice, subject to all just exceptions.

Official logs to be delivered to Shipping Master on ship's arrival at port of destination in India.

CIX. The master of every Foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in India, or upon the discharge of the crew, whichever first happens, deliver to the shipping Master before whom the crew is discharged, the official log-book of the voyage; and the master or owner of every Home-trade ship of a burden exceeding three hundred tons shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some Shipping Master in India the official log-book for the preceding half year; and every master or owner who refuses or neglects to deliver his official log-book, as hereby required shall be subject to a penalty not exceeding Two Hundred Rupees.

Official logs to be transmitted to Shipping Master in case of transfer of ship and in case of loss.

CX. If any ship ceases, by reason of transfer of ownership or change of employment, to fall within the operation of Section CIII of this Act, the master or owner thereof shall, if such ship is then in any port in India, within one month, and if she is elsewhere, within six months, deliver or transmit to the Shipping Master at the port to which the ship belonged, the official log-book duly made out to the time at which she ceased to be within such operation, and in default shall for each offence incur a penalty not exceeding One Hundred Rupees; and if any ship is lost or abandoned, the master or owner thereof, shall, if practicable, and as soon as possible, deliver or transmit to the Shipping Master at the port to which the ship belonged, the official log-book (if any) duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding One Hundred Rupees.

PROCEDURE, &c.

Depositions to be received in evidence, when witnesses cannot be produced.

CXI. Whenever, in the course of any legal proceedings instituted at any port or place in India before any Judge or Magistrate or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of such proceeding, any deposition that such witness may have previously made in relation to the same subject matter before any Justice or Magistrate in Her Majesty's Dominions (include ing all parts of India other than those subject to the same local Government as the port or place where such proceedings are instituted), or any British Consular Officer elsewhere, shall, if authenticated by the signature of the Justice, Magistrate, or Consular Officer, be admissible in evidence on due proof that

such witness cannot be found within the jurisdiction of the Court in which such proceedings are instituted. Provided that, if the proceeding is Criminal, such deposition shall not be admissible, unless it was made in the presence of the person accused and the fact that it was so made is certified by the Justice, Magistrate, or Consular Officer. It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition ; and in any Criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

Adjudication of offences and recovery of penalties.

CXII. All offences under this Act, made punishable by any penalty, may be prosecuted summarily before a Magistrate or any person exercising the powers of a Magistrate. The provisions of Act XIII of 1856, relating to the adjudication of fines and penalties and the enforcing payment thereof, shall apply to penalties imposed under this Act in the Towns of Calcutta, Madras and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Wages, penalties, &c., payable by master or owner may be levied by distress of ship.

CXIII. In all cases where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then if the party so directed to pay the same is the master or owner of a ship and the same is not paid at the time and in manner prescribed in the order, the Court or Magistrate who made the order may, in addition to any other powers which such Court or Magistrate may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel.

MISCELANEOUS.

Act not to extend to ships belonging to Her Majesty or to any Foreign Prince or State. Or (except certain Sections) to ships belonging to the subjects of any Foreign Prince or State.

CXIV. Nothing in this Act shall extend to any ship belonging to or in the service of Her Majesty, or to any ship belonging to any Foreign Prince or State ; and nothing in this Act, except as otherwise hereinafter provided, shall extend to any ship belonging to the subjects of any Foreign Prince or State.

Engagements between masters of Foreign ships and lascars.

CXV. When the master of a Foreign ship, being at any Port in India, engages any lascar or other native seaman to proceed to any Port out of India, he shall enter into an agreement with such seaman, and the agreement shall be made before a Shipping Master in the manner hereinbefore provided for the making of agreements in the case of Foreign-going ships, and all the provisions of Sections XXI and XXII of this Act, respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman ; and the master of such Foreign ship shall give to the Shipping Master a bond with the security of some approved person resident in India for an amount calculated at the rate of One Hundred Rupees for every such seaman and conditioned for the due performance of the said agreement and stipulations.

Fees payable in respect of such engagements.

CXVI. The fees prescribed in Section VI of this Act shall be payable in respect of every such agreement, and deductions from the wages of seaman so engaged may be made to the extent and in the manner allowed by the said Section.

Penalty for master of Foreign ship engaging native seaman otherwise than as above. Shipping Master may board Foreign ships suspected of unlawfully shipping native seaman.

CXVII. If any lascar or other native seaman is engaged by the master of any Foreign ship otherwise than is allowed in the two last preceding Sections, such master shall be liable to a penalty of One Hundred Rupees for every such seaman so engaged. It shall be lawful for the Shipping Master, by himself or his deputy, to enter on board any Foreign ship upon which he shall have reason to believe that any such seaman has been shipped, and the provisions of Section XXX of this Act, shall be applicable in respect of every such ship.

Interpretation. "India." "Local Government." "Home-trade ship." "Foreign-going ship. "Master." "seaman.

CXVIII. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be some thing in the subject or context repugnant to such construction, (that is say), the word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India" ; the expression "local Government" shall mean the person or persons for the time being immediately administering the Executive Government of any portion of the said territories. The expression "Home-trade ship" shall include every ship employed in trading between any ports of the said territories : or between any port of the said territories and any port or place on the Continent of India or in the Island of Ceylon. The expression "Foreign-going ship" shall include every ship employed in trading between any port of the said territories and any port or place not in the said territories, nor on the Continent of India, nor in the Island of

Ceylon. The word "master" shall include every person (except a Pilot) having command or charge of any ship. The word "seaman" shall include every person (except masters, pilots, and apprentices) employed or engaged in any capacity on board any ship. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. Words importing the masculine gender shall include females. The word "person" shall include a corporation.

TABLE A. *(See Section V.*

Fees to be charged for matters transacted at Shipping Offices,

1. Engagement or discharge of crews.

			Rs.	As.	P.
In Ships under	100 Tons	...	3	0	0
From 100 to	200	„ ...	7	0	0
200 to	300	„ ...	10	0	0
300 to	400	„ ...	12	8	0
400 to	500	„ ...	15	0	0
500 to	600	„ ...	17	8	0
600 to	700	„ ...	20	0	0
700 to	800	„ ...	22	8	0
800 to	900	„ ...	25	0	0
900 to	1,000	„ ...	27	8	0
above	1,000	„ ...	30	0	0

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two Rupees and eight annas.

2. Engagement or discharge of seamen separately, one Rupee for each seaman.

TABLE B. *(See Section VI.)*

Sums to be deducted from wages by way of partial repayment of fees in Table A.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge.

		Rs.	As.	P.
From wages of any Mate, Purser, Engineer, Surgeon, Carpenter, or Steward.	...	0	12	0
From wages of all others except apprentices	...	0	8	0
2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge	...	0	8	0

ACT No. III OF 1859.

(Received the assent of the Governor General on the 25th January 1859.)

1. Executive Government may invest Cantonment Joint Magistrates with Civil jurisdiction in certain cases.

2. Part of Act XI of 1841 suspended in Cantonments where Joint Magistrates are so invested with Civil jurisdiction.

3. Also, the Rules in force in the Madras and Bombay Presidencies for the trial of small suits in Military Bazars.

4. Persons amenable to be Articles of War for the Native Army, to be sued before Cantonment Joint Magistrates invested with Civil jurisdiction, and not elsewhere.

5. Saving of Rules in force in the Madras Presidency for the trial by Punchayet of suits against Military persons.

6. Trader not to recover any debt, unless registered as a Military Bazarman.

7. Procedure in cases under this Act. No revision or appeal. Execution of decrees.

8. Compensation may be awarded to a defendant, if suit be groundless and instituted without probable cause.

9. Cantonment Joint Magistrates may be appointed Registers of Deeds, within the limits of their jurisdiction.

10. Rules applicable to Registers of Deeds to be applicable to Cantonment Joint Magistrates appointed Registers.
11. Oaths of Office.

An Act for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds.

WHEREAS it is expedient that Cantonment Joint Magistrates should be invested with Civil jurisdiction in certain cases within the local limits of their Criminal jurisdiction, and that they should also be appointed Registers of Deeds within the same limits ; It is enacted as follows :—

Government may invest Cantonment Joint Magistrates with Civil jurisdiction in certain cases.

I. It shall be competent to the Governor-General in Council, and to the Executive Government of any Presidency or place, to invest the Joint Magistrate of any Military Cantonment Bazar or Station, within the limits of their respective Governments, with Civil jurisdiction. Every Joint Magistrate so invested shall have power to hear and determine actions of debt and other personal actions, in which the value in question shall not exceed the sum of two hundred Rupees, and which shall not involve any dispute of caste or any right of real property, against any person who at the time when the cause of action arose, and at the time of the institution of the suit, shall have been or shall be subject to the Articles of War for the Native Army, or residing or carrying on trade or business within the limits of such Military Cantonment Bazar or Station, and not subject to any Articles of War made by Her Majesty.

Part of Act XI of 1841 suspended. Joint Magistrates are invested with Civil jurisdiction.

II. Whenever the Joint Magistrate of any Military Cantonment Bazar or Station shall be invested with Civil jurisdiction under the provisions of the preceding Section, and so long as he shall remain so invested, so much of Act XI of 1841, as authorizes the Commanding Officers of Stations or Cantonments to convene Military Courts of Requests for the trial of actions of debt and other personal actions as aforesaid, shall be suspended within the limits of such Cantonment bazar or Station.

Also the Rules for trial of small suits in Military Bazars.

III. Whenever in either of the Presidencies of Madras or Bombay an Officer shall be invested with Civil jurisdiction as aforesaid, and so long as he shall remain so invested, the Rules for the trial of small suits in Military Bazars at Cantonments aad Stations occupied by the Troops of those Presidencies respectively shall cease to have effect within the jurisdiction of such Officer.

Persons amenable to the Articles of war, to to be sued only before Cantonment Joint Magistrates.

IV. Whenever the Joint Magistrate of any Military Cantonment Bazar or Station shall be invested with Civil jurisdiction under the provisions of this Act, no person amenable to the Articles of War for the Native Army, who may be liable to be sued before such Joint Magistrate for any cause of action cognizable by him, shall be sued elsewhere.

Saving of Rules in Madras Presidency for trial of suits by Punchayet.

V. Provided that, nothing in the preceding Sections shall be held to alter or affect the Rules in force in the Madras Presidency for the trial by Punchayet of suits against Military persons belonging to that Presidency.

Trader not to recover any debt. unless registered as a Military Bazar-man.

VI. No person carrying on trade or business within the limits of any Military Contonments, or who shall have carried on trade or business within any such limits, shall be allowed to recover in any Court held under this Act any debt contracted in the way of such trade or business, or the loan of money within any such cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the time of contracting the same, have been registered as a Military Bazarman within such Cantonment.

Procedure in cases under this Act.

VII. In cases instituted under the provisions of this Act, the plaintiff shall prefer his claim in writing to the Court of the Joint Magistrate having jurisdiction over the same, and if the defendant be a Native Officer or Soldier or a mustered Camp Follower, the summons to appear and answer to the claim shall be transmitted, for the purpose of being served on the defendant, to the Commanding Officer of the Corps or Detachment to which such defendant may belong ; and the Commanding Officer shall return the summons to the Joint Magistrate, with the acknowledgment of the defendant endorsed thereon ; or if, the summons cannot be served, the reason of the non-service shall be stated. In other respects the rules of procedure and all other rules contained in Act XI of 1841 (*for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the service of the East India Company*) shall be applicable to such cases, and to the execution of the decrees passed therein, so far as the same are applicable : Provided, that the decisions of the Joint Magistrate in cases cognizable by him under this Act shall not be open to revision or appeal ; And provided further, that it shall not be necessary to publish in Station Orders the decrees passed in such cases before they are carried into execution, and the Joint Magistrate passing the decree shall determine whether the execution shall be general or special, and shall proceed of his own authority with the execution.

No revision appeal

Execution o Decrees.

Compensation to defendant if suit be groundless.

VIII. If the claim of the plaintiff be dismissed, and it shall appear to the Joint Magistrate that the suit was groundless, and that there was no probable cause for instituting the name, it shall be competent to such Joint Magistrate to award against the plaintiff in favor of the defendant, such sum as hemay consider a reasonable compensation to the defendant for the loss of time and expense to which he may have been subject by the institution of the suit against him, and to proceed to recover the amount so awarded under the rules applicable to execution of decrees passed under this Act.

Repealed by XVI. 1864.

Oath of Office.

XI. Every Joint Magistrate who shall be invested with Civil jurisdiction, or who shall be appointed Register of Deeds under the provisions of this Act, shall previously to entering upon the performance of his duties, make and subscribe before the Chief Civil Officer, or, where there may be no Civil Officer, before the Chief Military Officer of the District or Zillah in which such Cantonment Bazar or Station is situate, the oaths required by law to be made and subscribed by Civil Judges and Registers of Deeds respectively, or the declarations substituted for such oaths.

ACT No. V. of 1859.

(Received the assent of the Governor General on the 4th March 1859.)

1. Ghatwals of Beerbhoom to have the same right of granting leases as is allowed to other proprietors of lands. Proviso.

2. Courts of Wards and Revenue authorities to have the like power in certain cases.

An Act to empower the holders of Ghatwalee land, in the Districts of Beerbhoom to grant leases extending beyond the period of their own possession.

WHEREAS it has been held that the Ghatwals of the District of Beerbhoom who pay the revenue of their lands directly to Government under the provisions of Regulation XXIX. 1814 of the Bengal Code have not the power of alienating their lands ; and whereas, for the development of the mineral resources of the country in which the said Ghatwalee lands are situate, and for the improvement of the said lands, it is expedient that the power of granting leases for periods not limited by the term of their own possession, should in certain cases be extended to the possession of such lands ; It is enacted as follows :—

I. Ghatwals, holding lands in the District of Beerbhoom under the provisions of the aforesaid Regulation, shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures, as is allowed by law to the proprietors of other lands. Provided, that no lease of Ghatwalee lands for any period extending beyond the life-time or incumbency of the grantor of the lease shall be valid and binding on the successors of the grantor, unless the same shall be granted for the working of mines, or for the clearing of jungle, or for the erection of dwelling houses or manufactories, or for tanks, canals, and similar works ; and shall be approved by the Commissioner of the Division, such approval being certified by an endorsement on the lease under the signature of the Commissioner.

II. If any of the said Ghatwalee lands be at any time under the superintendence of the Courts of Wards, or otherwise subject to the direct control of the officers of Government, it shall be lawful for the Court of Wards or the Commissioner to grant leases for any such purpose as aforesaid ; and every lease so granted shall be valid and binding on all future possessors of the said lands, anything in the existing law to the contrary notwithstanding.

ACT No. VIII. OF 1859.*

(Received the assent of the Governor-General on the 22nd March 1859.)

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CHAPTER I.

OF THE JURISDICTION OF THE CIVIL COURTS.

Civil Courts to have cognizance of all Civil suits unless specially barred.

I. The Civil Courts shall take cognizance of all suits of a Civil nature, with the exception of suits of which their cognizance is barred by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras, and Bombay respectively, or by any Act of the Governor General of India in Council.

Or previously heard and determined.

II. The Civil Courts shall not take cognizance of any suit brought on a cause of action which shall have been heard and determined by a Court of competent jurisdiction in a former suit between the same parties or between parties under whom they claim.

Revision of Judgments.

III. The judgment of the Civil Courts shall not be subject to revision otherwise than by those Courts under the rules contained in this Act applicable to reviews of judgment, and by the constituted Courts of Appellate Jurisdiction.

Jurisdiction universal as to persons.

IV. No person whatever shall, by reason of place of birth, or by reason of descent, be in any Civil proceeding whatever excepted from the jurisdiction of any of the Civil Courts.

Jurisdiction as to other points.

V. Subject to such pecuniary or other limitations as are or shall be prescribed by any law for the time being in force, the Civil Courts of each grade shall receive, try, and determine all suits hereby declared to be cognizable by those Courts, if, in the case of suits for land or other immoveable property, such land or property shall be situate within the limits to which their respective jurisdiction may extend, and in all other cases if the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or personally work for gain, within such limits.

In what Court suit to be instituted.

VI. Every suit shall be instituted in the Court of the lowest grade competent to try it. But it shall be lawful for the District Court to withdraw any suit instituted in any Court subordinate to such District Court, and to try such suit itself, or to refer it for trial to any other Court subordinate to its authority and competent in respect of the value of the suit to try the same, whenever it may see sufficient cause for so doing. In like manner the Sudder Court may order that the cognizance of any suit or appeal, which may be instituted in any Court subordinate to such Sudder Court, shall be transferred to any other Court subordinate to its authority and competent in respect of the value of the suit or appeal to try the same.

Transfer of suits.

Suit to include the whole claim, but part may be abandoned.

VII. Every suit shall include the whole of the claim arising out of the cause of action, but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court. If a plaintiff relinquish or omit to sue for any portion of his claim, a suit for the portion so relinquished or omitted, shall not afterwards be entertained.

VIII. Causes of action by and against the same parties, and cognizable by the same Court, may be joined in the same suit, provided the entire claim in respect of the amount or value of the property in suit do not exceed the jurisdiction of such Court.

Joinder of separate causes of action in one suit.

IX. If two or more causes of action be joined in one suit, and the Court shall be of opinion that they cannot conveniently be tried together, the Court may order separate trials of such causes of action to be held.

Court may order separate trial of such causes of action.

X. A claim for the recovery of land, and a claim for the mesne profits of such land, shall be deemed to be distinct causes of action within the meaning of the two last preceding Sections.

Claims for land and for mesne profits, to be held distinct.

XI. If the suit be for land or other immoveable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within the jurisdiction of which any portion of such land or other immoveable property is situate, provided the entire claim in respect of the value of the property in suit be cognizable by such Court; but in such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same.

Suits for land in different jurisdictions of the same District.

XII. In like manner, if the property be situate within the limits of different Districts, the suit may be brought in any Court, otherwise competent to try it, within the jurisdiction of which any portion of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Sudder Court for authority to proceed with the same; if the suit is brought in any Court subordinate to a District Court, the application shall be submitted through the District Court to which the Court is subordinate.

Suits for land situate in different Districts.

XIII. If the Districts within the limits of which the property is situate are subject to different Sudder Courts, the application shall be submitted to the Sudder Court to which the District, in which the suit is bronght, is subject: and the Sudder Court to which such application is made, may, with the concurrence of the Sudder Court to which the other District is subject, give authority to proceed with the same.

Suits for land situate under different Sudder Courts.

XIV. If, in a suit for land situate on the borders of the Court's local jurisdiction, the defendant object to the hearing of the suit on the ground that the land is not included within the local jurisdiction of the Court, the Court shall have power to determine the point; and if the Court shall find that the land is included within its local jurisdiction, it shall proceed to try the suit. Provided that, if it be shown that the land in dispute has been adjudged by competent authority to belong to an estate, village, or other known division of land situate within the local jurisdiction of another Court, the Court in which the suit is brought shall reject the plaint or return it to the plaintiff in order to its being presented in the proper Court.

Suit for land on borders of the Court's local jurisdiction but allegod by defendant to be in another jurisdiction.

Proviso.

XV. No suit shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the Civil Courts to make binding declarations of right without granting consequential relief.

Declaratory suit.

CHAPTER II.

PRELIMINARY RULES.

XVI. All applications to any Civil Court, and all appearances of parties in any Civil Court, except when otherwise specially provided by this Act, shall be made by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Parties may adpear in person or by agent or pleader.

XVII. The recognized agents of parties by whom such applications and appearances may be made are—

Who are to be deemed recognised agents.

1st. Persons holding general powers of attorny from parties not within the jurisdiction of the Court, authorizing them to make such applications and appearances on behalf of such parties.

2ndly.—Persons carrying on trade or business for and in the name of parties not within the jurisdiction of the Court, in matters connected with such trade or business only, where no other agent is expressly authorized to make such applications or appearances.

3rdly.—Persons being ex-officio or otherwise authorized to act for Government in respect of any suit or judicial proceeding.

4thly.—Persons specially appointed by order of Government, at the request of any Sovereign Prince or Independent Chief, whether residing within or without the British Territories, to prosecute or defend a suit on his behalf.

Whenever the personal appearance of a party to a suit is required by this Act, such appearance may be made by his recognized agent, unless the Court shall

otherwise direct; and anything which by this Act is required or permitted to be done by a party in person may be done by his recognized agent. Notices given to or processes served on a recognized agent relative to a suit shall be as effectual for all purposes in relation to the suit, as if the same had been given to or served on the party in person, unless the Court shall otherwise direct; and all the provisions of this Act relative to the service of notices or processes on a party to a suit shall be applicable to the service of notices and processes on such recognized agent,

Appointment of pleaders.

XVIII. The appointment of a pleader to make any such application or appearance as aforesaid shall be in writing, and shall be filed in the Court. When so filed, it shall he considered to be in full force, until revoked by a writing filed in the Court.

Service of notices, &c., on pleaders.

All notices given to, or processes served on the pleader of any party, or left at the office or ordinary residence of such pleader, relative to a suit, and whether the same be for the personal attendance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents, and shall be as effectual, for all purposes in relation to the suit, as if the same had been given to or served on the party in person, unless the Court shall otherwise direct.

Officer or Soldier may authorise any one to appear for him.

XIX. When an Officer or Soldier in the service of the Government is a party to a suit, and cannot obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any member of his family or any other person to commence, conduct, and manage the suit or the defence, as the case may be, in his stead. The authority shall be in writing, and shall be signed by the Officer or Soldier in the presence of his Commanding Officer, who shall countersing the same, and it shall be filed in the Court. When so filed, the counter-signature of the Commanding Officer shall be sufficient proof that the authority was duly executed, and that the Officer or Soldier by whom it was granted could not obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person.

Such person may appear personally or appoint a pleader.

XX. Any person who may be authorized, as in the last preceding Section mentioned, by an Officer or Soldier, to prosecute or defend a suit in his stead, shall be competent to prosecute or defend it in person, in the same manner as the Officer or Soldier could do, if present; or he may appoint a pleader of the Court to prosecute or defend the suit on behalf of such Officer or Soldier. And all notices or processes relative to the suit, which may be served upon any person who shall be so authorized as aforesaid by an Officer or Soldier, or upon any pleader who shall be appointed as aforesaid by such person to act for or on behalf of such Officer or Soldier, shall be as effectual for all purposes relative to the suit as if the same had been served on the party in person, or on a pleader appointed by him.

Purdah woman exempt from personal appearance.

XXI. Women, who according to the custom and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court.

Government may exempt person of rank from personal appearance.

XXII. The Government may at its discretion exempt from personal appearance in Court any person whose rank in the opinion of the Government entitles him to the privilege of exemption, and may at its discretion withdraw such privilege. The names of the persons so exempted (if any) residing within the jurisdiction of the principal Civil Court of each District shall from time to time be forwarded to such Court by the local Government, and a list of such persons (if any) shall be kept in such Court and in the several subordinate Courts of the District.

XXIII. Repealed by Act XXIII. 1861, Section I.

Punishment for false verification of plaint, statement, &c.

XXIV. If any plaint, written statement, or declaration in writing required by this Act to be verified shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabricating false evidence.

CHAPTER III.

OF A SUIT TILL FINAL DECREE.

OF THE INSTITUTION OF SUITS.

Suits to be commenced by plaint.

XXV. All suits shall be commenced by a plaint, which, except when otherwise specially provided by this Act, shall be presented to the Court by the plaintiff in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Particulars to be given in the plaint.

XXVI. The plaint shall be distinctly written in the language in ordinary use in proceedings before the Court, and shall contain the following particulars:—

1.—The name, description, and place of abode of the plaintiff.

2.—The name; description, and place of abode of the defendant, so far as they can be ascertained.

3.—The relief sought for, the subject of the claim, the cause of action and when it accrued : and if the cause of action accrued beyond the period ordinarily allowed by any law for commencing such a suit: the ground upon which exemption from the law is claimed.

The following are instances :

If the suit be for money due on a bond or other written instrument :—Payment of due on (*a bond or other written instrument as the case may be*) for the sum of , bearing date the day of , and payable on the day of namely,—

Principal.....

Interest .....

Amount paid (if any) .....

Balance due.....

If the plaintiff claim exemption from any law of limitation, say—" The plaintiff was an infant (*or as the case may be*) from the day of to the day of ."

If the suit be for the price of goods sold:—Payment of , on account of maunds of (*rice, indigo, sugar or as the case may be.*) sold on the day of , and the price of which became payable on the day of as per account at foot.

If the suit be for damages for an injury done :—Payment of on account of injury done to the plaintiff, [*here set out the nature of the injury, and state the particulars of the pecuniary loss (if any)*].

4.—When the claim is for any property other than money, its estimated value.

The following is an instance :—

If the suit be for an estate or for share in an estate paying revenue to Government :—Possession of the estate (*or of share in the estate,*) called , situate in the Zillah of the sudder jumma of which is and estimated value , of which the plaintiff was dispossessed (*or forcibly or fraudulently dispossessed if the case be so,*) on the day of ; (*or to which the plaintiff became entitled by inheritance from or by gift, purchase, or otherwise, as the case may be on or about the day*).

5.—When the claim is for land or for any interest in land, the nature of the tenure or interest must be specified ; and if the claim be for land forming part of a village or other known division, or for a house, garden, or the like, its situation shall be described by the setting forth of boundaries, or in such other manner as may suffice for its identification.

6.—In all suits by or against the Government, or one of its Officers in his official capacity, or any corporation, or any company authorized to sue and be sued in the name of an Officer or Trustees, the words " The Government, " or " The Collector of ," or otherwise as the case may be, or the name of the Corporation, or the name or names of the Officers or Trustees of the Company, shall be inserted in Nos. 1 and 2, instead of the name and description of the plaintiff or defendant. But in all other cases it shall be necessary to specify the names of all the parties.

Plaint to be subscribed and verified.

XXVII. The plaint shall be subscribed by the plaintiff and his pleader (if any), and shall be verified at the foot by the plaintiff in the manner following, or to the like effect :—

I (A.B.) the plaintiff named in the above plaint do declare that what is stated therein is true to be best of my information and belief.

Absence of plaintiff. Verification by Officer of corporation or company.

XXVIII. If the plaintiff, by reason of absence or for other good cause, be unable to subscribe and verify the plaint, the Court may allow the plaint to be subscribed and verified on behalf of the plaintiff by any person whom the Court may consider competent to make the verification. In suits by a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the plaint shall be subscribed and verified on behalf of the Corporation or Company by any Director, Secretary, or other principal Officer of the Corporation or Company who may be able to depose to the facts of the case.

Court may reject plaint, if it do not contain the required particulars, &c. Amendment of Plaint.

XXIX. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or if it contain particulars other than those required to be specified, whether relevant to the suit or not, or if the statement of particulars be unnecessarily prolix, or if the plaint be not subscribed and verified

as hereinbefore required, the Court may reject the plaint, or at its discretion may allow the plaint to be amended.

Plaint to be returned, if the claim is beyond the jurisdiction of the Court.

XXX. If the amount or estimated value of the claim, as stated by the plaintiff, be beyond the jurisdiction of the Court, the plaint shall be returned to the plaintiff in order to its being presented in the proper Court.

Plaint to be rejected, if improperly or insufficiently valued.

XXXI. If it appear to the Court that the claim is improperly valued, or being properly valued, that the plaint is written upon stamped paper of inadequate value, and the plaintiff, on being required by the Court to correct such improper valuation or to supply such additional stamp paper as may be necessary, shall not comply with the requisition, the Court shall reject the plaint.

Plaint to be rejected, if plaintiff has no cause of action or right of action is barred by lapse of time. Amendment of plaint.

XXXII. If upon the face of the plaint, or after questioning the plaintiff, it appear to the Court that the subject matter of the plaint does not constitute a cause of action, or that the right of action is barred by lapse of time, the Court shall reject the plaint. Provided, that the Court may in any case allow the plaint to be amended, if it appear proper to do so.

XXXIII. Repealed by Act XXIII, 1861, Sec. 1

Security for costs to be furnished by plaintiff if he resides out of British India.

XXXIV. A suit by a party ordinarily residing out of the British territories in India, and not possessing any land or other immoveable property within those territories independent of the property in suit, shall not be entertained, unless the plaintiff, at the time of presenting the plaint or within such time as the Court shall order, furnish security for the payment of all costs that may be incurred by the defendant in the suit. In the event of such security not being furnished, the Court shall return the plaint to the plaintiff.

Security for costs may be required in any stage of suit, if plaintiff resides out of India.

XXXV. If in any stage of a suit it shall appear to the Court, that the plaintiff (being sole plaintiff) is a person residing out of the British territories in India, the Court may order, him within a time to be fixed by such order, to furnish security for the payment of all costs incurred and to be incurred by the defendant in the suit. In the event of such security not being furnished within the time so fixed, the Court shall pass judgment against the plaintiff by default, unless he be permitted to withdraw from the suit under the provisions of Section 97.

Appeal from order rejecting plaint.

XXXVI. Whenever a plaint is rejected under any of the foregoing Sections, an appeal shall lie from the order rejecting the plaint. The rejection of a plaint on any of the grounds mentioned in Sections 29 and 31 shall not preclude a plaintiff from presenting a fresh plaint in respect of the same cause of action.

Proceeding in a suit for immoveable property in different jurisdictions.

XXXVII. If the suit be for land or other immoveable property, situate partly within the jurisdiction of the Court and partly within the jurisdiction of some other Court or Courts, the Court shall proceed according to the rules contained in Section 11, Section 12, or Section 13, as the case may be.

When the plaint is admissible, particulars to be entered in a Register.

XXXVIII. If the Court consider the plaint admissible, the particulars mentioned in Section 26 shall be entered in a book to be kept for the purpose, and called the Register of Civil Suits; and the entries shall be numbered in every year according to the order in which the plaint is presented. The Register shall be kept in the form contain in the Schedule (A) hereunto annexed.

Written document to be produced in Court when plaint is presented, or to be inadmissible in evidence.

XXXIX. When the plaintiff sues upon any written document, or relies upon any such document as evidence in support of his claim, he shall produce the same in Court when the plaint is presented, and shall at the same time deliver a copy of the document to be filed with the plaint; if the document be an entry in a shop-book or other book, the plaintiff shall produce the book to the Court together with a copy of the entry on which he relies. The Court shall forthwith mark the document for the purpose of identification; and, after examining and comparing the copy with the original, shall return the document to the plaintiff. The plaintiff may if he think proper, deliver the original document to be filed instead of the copy. The Court may, if it see sufficient cause, direct any written document so produced to be impounded and kept in the custody of some Officer of the Court, for such period and subject to such conditions as to the Court shall seem meet. Any document, not produced in Court by the plaintiff when the plaint is presented, shall not be received in evidence on his behalf at the hearing of the suit without the sanction of the Court.

Production of document in possession of defendant.

XL. If the plaintiff require the production of any written document in the possession or power of the defendant, he may, at the time of presenting the plaint deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

Of Summoning the Defendant.

On plaint being registered, summons to issue to defendant, either for settlement

XLI. When the plaint has been registered, a summons, under the signature of the Judge and the seal of the Court, shall be issued to the defendant to appear and answer the claim, on a day to be therein specified, in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the

suit, or by a pleader who shall be accompanied by some other person able to answer all such questions. The Court shall determine at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit, and the summons shall contain a direction accordingly.

of the issues, or for final disposal of the case.

XLII. If the Court see reason to require the personal attendance of the defendant, the summons shall order the defendant to appear personally in Court on the day therein specified. If the Court see reason to require the personal attendance of the plaintiff on that day, it may make an order for such attendance. Provided, that no plaintiff or defendant shall be ordered to attend in person, who at the time is *bonâ fide* residing at a distance of more than fifty miles from the place where the Court is held, unless he be resident within the limits of the jurisdiction of the Court.

Personal appearance of defendant or plaintiff. If resident within 50 miles, or within the local jurisdiction of the Court.

XLIII. The summons to appear shall order the defendant to produce any written document in his possession or power, of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his defence.

Summons shall order defendant to produce documents.

XLIV. The summons shall be in the Form contained in the Schedule (B) hereunto annexed, or to the like effect.

Form of summons.

XLV. The day for the appearance of the defendant shall be fixed by the Court with reference to the place of residence of the defendant. and the time necessary for the service of the summons ; and the day shall be so fixed as to allow the defendant a sufficient time to enable him to appear and answer in person or by a pleader on such day.

The day for appearance of defendant how to be fixed.

XLVI. In suits against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the Court may, if it think proper, require the personal attendence of any Director, Secretary, or other principal Officer of the Corporation or Company, who may be able to answer all material questions relating to the suit.

Court may order personal appearance of a Director or Secretary in suits against a Corporation or Company

SERVICE OF SUMMONS ON THE DEFENDANT.

XLVII. The summons shall be delivered to the Nazir, or other proper officer of the Court, to be served by himself or one of his subordinates, and such officer shall be responsible for its due service.

Summons shall be served by Officer of Court.

XLVIII. Service of the summons shall be made by delivering or tendering a copy thereof under the signature of the Judge and seal of the Court; and when there are more defendants than one, service of the summons shall be made on each defendant.

How service shall be made.

XLIX. Whenever it may be practicable, the service shall be on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

Service to be on defendant in person, when practicable. Service on agent sufficient.

L. Besides the recognized agents described in Section 17, any person residing within the jurisdiction of the Court may be appointed an agent to receive the service of summonces and other processes.

Who may be an agent to receive service.

LI. The appointment of such agent shall be in writing, and the original appointment, or a copy thereof if the appointment be a general one, shall be filed in the Court.

Appointment of such agent to be in writing and filed in Court.

LII. The Government pleader in each Court shall be accounted the agent of the Government for the purpose of receiving services of summonses and other judicial processes against the Government, issuing out of the Court in which he may be the pleader of Government.

Agent of Government.

LIII. When the defendant cannot be found, and has no agent empowered to accept the service of the summons, it may be made on any adult male member of his family residing with him.

If defendant cannot be found, and no agent, service may be made on a male member of his family.

LIV. In all cases where the summons is served on the defendant personally, or any agent or other person on his behalf, the serving Officer shall require the signature of the person on whom the service may be made, to an acknowledgment of service, to be endorsed on the original summons or on a copy thereof under the seal of the Court. If such person refuse to sign the acknowledgment, the service of the summons shall nevertheless be held sufficient, if it be otherwise proved to the satisfaction of the Court.

In all cases the person served is to be required to endorse the summons. But service is sufficient without.

LV. When the defendant cannot be found, and there is no agent empowered to accept the service, nor any other person on whom the service can be made, the serving Officer shall fix the copy of the summons on the outer door of the house in which the defendant is dwelling ; and if, he is not dwelling in the place mentioned in the summons, the serving Officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve

If the summons cannot be served, a copy shall be fixed to the door of the dwelling house.

it. Provided that, if the serving Officer is informed that the defendant is to be found or has his dwelling in a place within the jurisdiction of the Court other than that indicated in the summons, the Officer may proceed to that place to serve the summons.

If served, time and manner of service to be endorsed on summons.

LVI. The serving Officers shall, in all cases in which the summons has been served, endorse on the original summons or on a copy thereof under the seal of the Court, the time when and the manner in which it was served.

When summons is unserved, Court to order substituted service, if defendant is avoiding service.

LVII. When a summons is returned to the Court without having been served, if the plaintiff shall satisfy the Court that there is reasonable ground for believing that the defendant is keeping out of the way of its Officer for the purpose of avoiding the service of the summons, the court shall order the summons to be served by fixing up a copy thereof upon some conspicuous place in the Court-house, and also upon the door of the house in which the defendant shall have last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court shall think proper. And the service which shall be substituted by order of Court shall be as effectual to all intents and purposes as if it had been effected in the manner above specified.

When service is substituted, the time for appearance to be fixed.

LVIII. Whenever service shall be substituted by order of the Court by virtue of the power contained in the last preceding Section, the Court shall fix such time for the appearance of the defendant as the case may require,

How summons is to be served, when defendant is resident within another jurisdiction and has no agent.

LIX. If the defendant be resident within the jurisdiction of any Court other than that in which the suit is instituted, and have no agent empowered to accept the service, the Court in which the suit is instituted shall transmit the summons, either by an Officer of the Court or by post, to any Court having jurisdiction at the place where the defendant resides, by which it can be most conveniently served, and shall fix such time for the appearance of the defendant as the case may require; and the Court to which the summons is transmitted, shall, upon receipt of the summons, deliver the same to the Nazir or other proper Officer of such Court to be served in the manner above directed; and upon the return of the summons by the serving Officer, it shall be re-transmitted to the Court from whence it originally issued.

How summons is to be served, when defendant resides out of British India and has no agent. Time for appearance. In case of non appearance, Court may direct suit to proceed subject to conditions.

LX. If the defendant be resident out of the British territories in India, and have no agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he may reside, and forwarded to him by post; in such case the time for the appearance of the defendant shall be regulated by the time which may be required for communication by post between the place at which the Court is held and the place where the defendant resides; and if, on the day fixed for the hearing of the suit, or on any day to which the hearing may be adjourned, the defendant shall not appear in person or by pleader, the plaintiff may apply to the Court, and it shall be lawful for the Court to direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as to the Court may seem meet.

In suits for immoveable property service may in certain cases be on agent in charge.

LXI. When the suit is for land or other immoveable property, and the summons for any reason cannot be served on the defendant in person, and the defendant has no agent empowered to accept the service, the summons may be served on any agent of the defendant in charge of such land or other immoveable property.

How service may be made on Government Servants, and on Officers and Soldiers.

LXII. When the defendant is in the service of the Government, the Court may transmit a copy of the summons to the head Officer of the office in which the defendant is employed, for the purpose of being served on him, if it shall appear to the Court that the summons may be most conveniently so served. If the defendant be an Officer or Soldier, the Court shall transmit a copy of the summons to the Commanding Officer of the Corps to which the defendant belongs, for the purpose of being served on him. The Officer to whom the summons is transmitted, after causing the summons to be served on the person to whom it is addressed if practicable, shall return it to the Court with the written acknowledgement of such person endorsed thereon. If from any cause the summons cannot be served upon the person to whom it is addressed, it shall be returned to the Court by which it was transmitted with information of the cause which has prevented the service. In such case the Court shall adopt such means of serving the summons as it may deem proper.

Service on a Corporation or Company.

LXIII. When the suit is against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the summons may be served by leaving the same at the registered Office (if any) of the Company, or sending it through the Post Office by a letter addressed to such Office, or by giving it to any Director, Secretary, or other principal Officer of the Corporation or company.

In what case letter may be substituted for a summons.

LXIV. Nothing contained in the preceding rules shall be construed to prevent the Court from substituting for the summons, a letter or other appropriate

communication under the signature of the Judge and seal of the Court, when the person whose appearance is required is of a rank which entitles him to such mark of consideration. The letter or other communication shall contain all the particulars required to be stated in the summons, and shall be treated in all respects as a summons.

Service how to be made in such case.

LXV. When a letter or other communication is substituted for a summons under the authority of the last preceding Section, it may be transmitted through the Post office, or by a special messenger selected by the Court, or in any other manner which the Court may deem sufficient; unless the party shall have an agent empowered to accept service of judicial process, in which case delivery to such agent shall be deemed sufficient service.

Service by summons, letter, &c., transmitted through the post, how to be proved.

LXVI. Whenever it is provided that any summons, letter, or other communication may be transmitted to the person to whom it is addressed through the Post Office, proof that the same was correctly addressed to such person at his place of residence, and that it was duly posted and registered according to Section XXXVIII of Act XVII of 1854 *(for the management of the Post Office, for the regulation of the duties of Postage, and for the punishment of offences against the Post Office)*, shall be sufficient proof of the due service and delivery of the summons, letter, or other communication, in the absence of evidence to the contrary.

OF SUITS AGAINST GOVERNMENT AND PUBLIC OFFICERS.

In suits against Government, summons to be served on Government Pleader. Appearance and answer.

LXVII. If the suit be against the Government, the summons shall be served on the Government Pleader. The Court, in fixing the day for the Government to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Pleader to appear and answer on behalf of the Government. and may extend the time at its discretion on the application of the Government Pleader. The Court may also, if it think proper, direct the attendance of a person who may be able to answer all material questions relating to the suit.

In suits against Government Officers for alleged official acts, summons to be served on them.

LXVIII. If the suit be against an Officer of the Government for an act which the plaintiff alleges to have been done by such Officer in his official capacity, the summons shall be served upon such Officer in the manner hereinbefore provided.

Court may grant extension of time for a reference to Government.

LXIX. If the Officer, on receiving the summons, shall consider it proper to make a reference to Government before answering to the plaint, he may move the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channels; and the Court upon such motion may extend the time for so long as shall appear to it to be requisite.

If Government undertake defence, Government Pleader to appear and move that his appearance be noted in the Register.

LXX. If the Government shall undertake the defence of the suit, the the Government Pleader shall be furnished with authority to appear and answer to the plaint; and, upon motion made by him, the Court shall order a note to that effect to be entered in the Register.

If no such notion be made case to proceed between private parties. But defendant not liable to arrest before judgment.

LXXI. If such motion shall not be made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest before judgment.

Defendant may in certain cases be exempted from personal appearance.

LXXII. If in any such suit the Court shall require the personal appearance of the defendant, and the defendant shall satisfy the Court that he cannot absent himself from his duty without injury to the public service, the Court shall exempt him from such appearance but he shall be liable to be examined in any way in which an absent witness may be examined.

HOW PERSONS NOT BEFORE THE COURT MAY BE MADE PARTIES TO A SUIT.

Court may adjourn hearing and direct that parties interested in the suit shall be made parties to it.

LXXIII. If it appear to the Court, at any hearing of a suit, that all the persons who may be entitled to, or who claim some share or interest in the subject matter of the suit, and who may be likely to be affected by the result, have not been made parties to the suit, the Court may adjourn the hearing of the suit to a future day to be fixed by the Court, and direct that such persons shall be made either plaintiffs or defendants in the suit as the case may be. In such case the Courts shall issue a notice to such persons in the manner provided in this Act or the service of a summons on a defendant.

OF ARREST BEFORE JUDGMENT.

In suits for moveable property, when

LXXIV. If in any suit, not being a suit for land or other immoveable property, the defendant, with intent to avoid or delay the plaintiff, or to obstruct or

defendant is about to leave jurisdiction &c., plaintiff may apply that security be taken.

delay the execution of any decree that may be passed against him, is about to leave the jurisdiction of the Court, or has disposed or of removed from the jurisdiction of the Court his property or any part thereof, the plaintiff may, either at the institution of the suit, or at any time thereafter until final judgment, make an application to the Court that security be taken for the appearance of the defendant to answer any judgment that may be passed against him in the suit.

Court may issue warrant to bring up defendant to show cause why he should not give bail.

LXXV. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be of opinion that there is probable cause for believing that the defendant is about to leave its jurisdiction with the intent of avoiding or delaying the plaintiff, or that he has disposed of or removed from the jurisdiction of the Court his property or any part thereof with the intent to obstruct or delay the execution of any decree, it shall be lawful for the Court to issse a warrant to the proper Officer enjoining him to bring the defendant before the Court, that he may show cause why he should not give good and sufficient bail for his appearance.

If defendant fail to show cause, Court may order him to give bail. Appeal.

LXXVI. If the defendant fail to show such cause, the Court shall order him to give bail for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit ; and the surety or sureties shall undertake, in default of such appearance, to pay any sum of money that may be adjudged against the defendant in the suit, with costs. Any order made by the Court under the provisions of this Section shall be open to appeal by the defendant.

Deposit in lieu of bail.

LXXVII. Should a defendant offer, in lieu of bail for his appearance, to deposit a sum of money or other valuable property sufficient to answer the claim against him, with the costs of the suit, the Court may accept such deposit.

Defendant to be committed to custody if he cannot give security.

LXXVIII. In the event of the defendant neither furnishing security nor offering a sufficient deposit, he may be committed to costody until the decision of the suit, or, if judgment be given against the defendant, until the execution of the decree if the Court shall so order.

Compensation to defendant arrested on insufficient grounds. Proviso.

LXXIX. If it shall appear to the Court that the arrest of the defendant was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount. not exceeding the sum of One Thousand Rupees, as it may deem a reasonable compensation to the defendant for any injury or loss which he may have sustained by reason of such arrest. Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. And award of compensation under this Section shall bar any suit for damages in respect of such arrest.

When the defendant is about to leave British India, the application to be made to the Court.

LXXX. If in any suit the defendant is about to leave the British territories in India with intent to remain absent so long, that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant, the plaintiff may make an application to the Court to the effect and in the manner aforesaid, and the procedure thereupon shall be in all repects the same as hereinbefore provided.

Of Attachment before Judgment.

In what cases plaintiff may apply before judgment for security from defendant to fulfil, decree, and, in default, for an attachment of defendant's property.

* LXXXI. If the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of his property or any part thereof, or to remove any such property from the jurisdiction of the Court where the suit is pending, the plaintiff may apply to the Court, either at the time of the institution of the suit or at any time thereafter until final judgment, to call upon the defendant to furnish sufficient security to fulfil any decree that may be passed against him in the suit, and, on his failing to give such security, to direct that any property, moveable or immoveable, belonging to the defendant, shall be attached until the further order of the Court.

Application how to be made.

LXXXII. The application shall contain a specification of the property required to be attached, and the estimated value of each article or item thereof ; and the plaintiff shall, at the time of making the application, declare that the defendant is about to dispose of or remove his property with such intent as aforesaid.

Form of warrant to be issued.

LXXXIII. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of the decree, it shall be lawful for the Court to issue a warrant to

* Act VI of 1862 B. C. extends Section LXXXI and the nine following Sections as regard Bengal to all suits under that Act or Act X of 1859.

the proper Officer, commanding him to call upon the defendant, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Court when required the said property or the value of the same or such portion thereof as may be sufficient to fulfil the decree, or to appear and show cause why he should not furnish security. The Court may also in the warrant direct the attachment until further order of the whole or any portion of the property specified in the application.

If cause be not shown or security be not furnished, property may be attached. Withdrawal of attachment.

LXXXIV. If the defendant fail to show such cause or to furnish the required security within the time fixed by the Court, the Court may direct that the property specified in the application, if not already attached, or such portion thereof as shall be sufficient to fulfil the decree, shall be attached until further order. If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it shall have been attached the Court shall order the attachment to be withdrawn.

How the attachment is to be made. Appeal.

LXXXV. The attachment shall be made according to the nature of the property to be attached, in the manner hereinafter prescribed for the attachment of property in execution of a decree for money. Any order for the attachment of property under the preceding Section shall be open to appeal by the defendant.

Claims to property attached before judgment how to investigated.

LXXXVI. In the event of any claim being preferred to the property attached before judgment, such claim shall be investigated in the manner hereinafter prescribed for the investigation of claims to property attached in execution of a decree for money.

Attachment may be removed, when security is furnished.

LXXXVII. In all cases of attachment before judgment, the Court which passed the order for the attachment shall at any time remove the same, on the defendant furnishing security as above required, together with security for the costs of attachment.

Compensation for attachment applied for on insufficient grounds. &c. Proviso.

LXXXVIII. If it shall appear to the Court that the attachment was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of One Thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the attachment of his property. Provided, that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such attachment.

Attachment not to affect the rights of persons not parties to the suit, or bar the execution of decrees.

LXXXIX. Attachments before judgment shall not affect the rights of persons not parties to the suit, nor bar any person holding a decree against the defendant for applying for the sale of the property under attachment in execution of such decree.

Court may stay the sale of property attached, if the decree appear to have been fraudulently obtained.

XC. If it shall appear to the Court by whose order the property may have been attached before judgment, that there is reasonable ground for supposing that the decree, in satisfaction of which the sale of the property is applied for, was obtained by fraud or other improper means, the Court may refuse to allow the property to be sold in execution, if the decree be a decree of that Court; or, if it be a decree of another Court, may stay the proceedings for a reasonable time to enable the plaintiff in the pending suit to adopt proceedings to set aside the decree.

Special case in which party may be put in immediate possession.

XCI. Whenever lands paying revenue to Government, or a tenure liable to summary sale under the provisions of Regulation VIII. 1819 of the Bengal Code *(to declare the validity of certain tenures and to define the relative rights of zemindars and Putnee Talookdars, &c.)*, form the subject of a suit, if the party in possession of such lands or tenure shall neglect to pay the Government revenue or the rent due to the proprietor of the estate as the case may be, and a public, sale shall in consequence be ordered to take place, the party not in possession shall, upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the lands or tenure; and the Court in its decree may award against the defendant the amount so paid, with interest thereupon, at such rate as to the Court may seem fit, or may charge the amount so paid, with interest thereupon at such rate as the Court may order, in any adjustment of accounts which may be directed in the final decree upon the suit.

OF INJUNCTIONS.

Cases in which an Injunction to stay waste &c., may be granted. Or in which

XCII. In any suit in which it shall be shown to the satisfaction of the Court that any property which is in dispute in the suit is in danger of being wasted, damaged, or alienated by any party to the suit, it shall be lawful for the Court to issue an Injunction to such party, commanding him to refrain from doing the

a Receiver or Manager may be appointed.

When the Collector may be appointed Receiver.

particular act complained of, or to give such other orders for the purpose of staying and preventing him from wasting, damaging, or alienating the property, as to the Court may seem meet. And in all cases in which it may appear to the Court to be necessary for the preservation or the better management or custody of any property which is in dispute in a suit, it shall be lawful for the Court to appoint a Receiver or Manager of such property, and, if need be, to remove the person in whose possession or custody the property may be from the possession or custody thereof, and to commit the same to the custody of such Receiver or Manager, and to grant to such Receiver or Manager all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits, as to the Court may seem proper. If the property be land paying revenue to Government, and it is considered that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be Receiver and Manger of such land, unless the Government shall by any general order prohibit the appointment of Collectors for such purpose, or shall in any particular case prohibit the appointment of the Collector to be such Receiver.

Injunction to restrain repetition or continuance of breach of contract, &c. Proviso.

XCIII. In any suit for restraining the defendant from the committal of any breach of contract or other injury, and whether the same be accompanied with any claim for damages or not, it shall be lawful for the plaintiff, at any time after the commencement of the suit, and whether before or after judgment, to apply to the Court for an Injunction to restrain the defendant from the repetition or the continuance of the breach of contract or wrongful act complained of, or the committal of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right; and such Injunction may be granted by the Court on such terms as to the duration of the Injunction, keeping an account, giving security, or otherwise, as to such Court shall seem reasonable and just, and in case of disobedience, such Injunction may be enforced by imprisonment in the same manner as a decree for specific performance: Provided always, that any order for an Injunction may be discharged or varied or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Appeal.

XCIV. Any order made under either of the last two preceding Sections shall be open to appeal by the defendant.

Before granting Injunction, Court may direct notice to be given to the opposite party.

XCV. The Court may in every case, before granting an Injunction, direct such reasonable notice of the application for the same to be given to the opposite party as it shall see fit.

Compensation to defendant for needless issue of Injunction. Proviso.

XCVI. If it shall appear to the Court that the Injunction was applied for on insufficient grounds, or if the claim of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such sum, not exceeding One Thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the issue of the injunction. Provided, that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of the issue of the Injunction.

Of the Withdrawal and Adjustment of Suits.

Court may allow plaintiff to withdraw from a suit, with liberty, to bring a fresh suit.

XCVII. If the plaintiff, at any time before final judgment, satisfy the Court that there are sufficient grounds for permitting him to withdraw from the suit with liberty to bring a fresh suit for the same matter, it shall be competent to the Court to grant such permission on such terms as to costs or otherwise as it may deem proper. In any such fresh suit the plaintiff shall be bound by the rules for the limitation of actions in the same manner as if the first suit had not been brought. If the plaintiff withdraw from the suit without such permission, he shall be precluded from bringing a fresh suit for the same matter.

Adjustment or compromise. Court may grant certificate for refund of stamp duty on plaint, if suit be adjusted. Proviso.

*XCVIII. If a suit shall be adjusted by mutual agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise, or satisfaction shall be recorded, and the suit shall be disposed of in accordance therewith. On the application of the plaintiff reciting the substance of such agreement, compromise, or satisfaction, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff authorizing him to receive back from

* See by Act X. 1862, Section 26.

the Collector the full amount of stamp-duty paid on the plaint, if the application shall have been presented before the settlement of issues, or half the amount if presented at any time after the settlement of issues and before any witness has been examined. Provided however, that no such certificate shall be granted, if the adjustment between the parties be such as to require a decree to pass on which process of execution can be taken out.

OF THE DEATH, MARRIAGE, AND BANKRUPTCY OR INSOLVENCY OF PARTIES.

Suit not to abate by death in certain cases.

XCIX. The death of a plaintiff or defendant shall not cause the suit to abate, if the cause of action survive.

Proceeding in case of death of one of several plaintiffs or defendants, if the cause of action survive.

C. If there be two or more plaintiffs or defendants, and one of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and against the surviving defendant or defendants.

Proceeding in case of death of one of several plaintiffs where the cause of action accrues to the survivor and representative of the deceased.

CI. If there be two or more plaintiffs, and one of them die, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone, but shall survive to them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of such representative in the Register of the suit in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representive of the deceased plaintiff. If no application shall be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs; and the legal representative of the deceased plaintiff shall be interested in and shall be bound by the judgment given in the suit, in the same manner as if the suit had proceed at his instance conjointly with the surviving plaintiff or plaintiffs.

Proceeding in case of death of sole or sole surviving plaintiff.

CII. In case of the death of a sole plaintiff or a sole surviving plaintiff, the Court may, on the application of the legal presentative of such plaintiff, enter the name of such representative in the place of such plaintiff in the Register of the suit and the suit shall thereupon proceed; if no such application shall be made to the Court, within what it may consider a reasonable time, by any person claiming to be the legal representative of the decased sole plaintiff or sole surviving plaintiff, it shall be competent to the Court to pass an order that the suit shall abate, and to award to the defendant the reasonable costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased sole or surviving plaintiff; or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs as may seem fit, pass such other order for bringing in the legal representative of the deceased sole plaintiff or surviving plaintiff, and for proceeding with the suit in order to a final determination of the matters in dispute, as may appear just and proper in the circumstances of the case.

Proceeding in case of dispute as to who is the legal representative of a deceased plaintiff.

CIII. If any dispute arise as to who is the legal representative of a deceased plaintiff, it shall be competent to the Court either to stay the suit until the fact has been duly determined in another suit, or to decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Proceeding in case of death of one of several defendants, or of a sole or sole surviving defendant.

CIV. If there be two or more defendants, and one of them die, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant, or sole surviving defendant, where the action survives, the plaintiff may make an application to the Court, specifying the name, description, and place of abode of any person whom the plaintiff alleges to be the legal representative of such defendant, and whom he desires to be made the defendant in his stead; and the Court shall thereupon enter the name of such representative in the Register of the suit in the place of such defendant, and shall issue a summons to him to appear on a day to be therein mentioned to defend the suit; and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceeding in the suit.

Marriage of a female plaintiff or defendant not to abate the suit.

CV. The marriage of a woman, plaintiff or defendant, shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and the decree thereupon may be executed upon the wife alone; and, if the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may, with the permission of the Court, be issued upon the application of the husband, where the husband is by law entitled to the money or thing which may be the subject of the decree.

Bankruptcy or insolvency when not to abate the suit.

CVI. The bankruptcy or insolvency of the plaintiff, in any suit which the Assignee might maintain for the benefit of the creditors, shall not be a valid objection to the continuance of such suit, unless the assignee shall decline to continue the suit, and to give security for the costs thereof within such reasonable time as the Court may order; if the Assignee neglect or refuse to continue the suit and to give such security within the time limited by the order, the defendant may, within eight days after such neglect or refusal, plead the bankruptcy of the plaintiff as a reason for abating the suit.

OF NOTICES TO PRODUCE, AND HOW THEY ARE TO BE SERVED.

Two notices in writing to be delivered to the proper Officer of the Court.

CVII. Whenever any of the parties to a suit is desirous that any document, writing, or other thing, which he believes to be in the possession or power of another of the parties thereto, should be produced at any hearing of the suit, and the production of such document, writing, or other thing has not previously been required under the provisions of Section 40 and 43, he shall at the earliest opportunity deliver to the Court two notices in writing to the party in whose possession or power he believes the document, writing, or other thing to be, calling upon him to produce the same, and one of such notices shall be filed in Court to the Nazir or other proper Officer, to be served upon such party.

Service of process how to be made on a party who has not appointed a pleader to act for him.

CVIII. In all cases in which a party to a suit has not appointed a pleader to act for him, all notices and other judicial processes shall be served upon such party in the manner hereinbefore provided for the service of a summons upon a defendant to appear and answer.

OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCES OF NON-APPEARANCE.

Parties must appear in person or by pleader.

CIX. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person, or by a pleader, and the suit shall then be heard, unless the hearing be adjourned to a future day which shall be fixed by the Court.

If neither party appear, suit to be dismissed, with liberty to the plaintiff to bring a fresh suit.

CX. If, on the day fixed for the defendant to appear and answer, or any other day subsequent thereto to which the hearing of the suit may be adjourned, neither party shall appear, either in person or by a pleader, when duly called upon by the Court, the suit shall be dismissed. Whenever a suit is dismissed under the provisions of this Section, the plaintiff shall be at liberty to bring a fresh suit, unless precluded by the rules for the limitation of actions; or, if he shall within the period of thirty days satisfy the Court that there was a sufficient excuse for his non-appearance, the Court may issue a fresh summons upon the plaint already filed.

If plaintiff only appear, Court may proceed ex parte, if due service of summons be proved. If defendant appear on day of adjourned hearing and assign good cause for his previous non-appearance he may be hard.

CXI. If the plaintiff shall appear in person, or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was duly served, the Court shall proceed to hear the suit *ex-parte*. If the defendant appear on any subsequent day to which the hearing of the suit is adjourned, and shall assign good and sufficient cause for his previous non-appearance, he may, upon such terms as the Court may direct as to payment of costs or otherwise, be heard in answer to the suit in like manner as if he had appeared on the day fixed for his appearance.

If plaintiff only appear, and due service of summons be not proved, Court may order second summons.

CXII. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall not be proved to the satisfaction of the Court that the summons was duly served in any of the modes of service hereinbefore provided, the Court may direct a second summons to the defendant to be issued in any of the said modes.

If plaintiff only appear, and service of summons be proved, but not in due time, Court may adjourn hearing and direct notice to be given to defendant.

CXIII. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaion of the Court that the summons was served on the defendant, but not in sufficient time to enable the defendant to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and may direct notice of such day to be given to the defendant.

If defendant only appear, Court to pass final judgment by default against plaintiff, unless defendant admit the claim.

CXIV. If the defendant shall appear in person or by a pleader, and the plaintiff shall not appear in person or by a pleader, the Court shall pass judgment against the plaintiff by default, unless the defendant admit the claim, in which case the Court shall pass judgment against the defendant upon such admission. When judgment is passed against a plaintiff by default he shall be precluded from bringing a fresh suit in respect of the same cause of action.

When there are several plaintiffs or de-

CXV. When there are two or more plaintiffs, any one or more of them may be authorized to appear, plead, and act for the other or others of them: and in

like manner, when there are two or more defendants, any one or more of them may be authorized to appear, plead, and act for the other or others of them; Provided, that the authority shall in all cases be in writing, and shall be filed in the Court; when so filed, it shall be as effectual to all intents and purposes as if the person so authorized to appear, plead, and act. were a pleader of the Court.

fendants, each may authorize the other to appear for him.

CXVI. If there are two or more plaintiffs, and one or more of then shall appear in person or by a pleader or by a co-plaintiff duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-plaintiff duly authorized, it shall be competent to the Court to proceed with the suit at the instance of the plaintiff or plaintiffs who shall have appeared, in the same way as if all the plaintiffs had appeared, and to pass such order as may be just and proper in the circumstances of the case; and if there are two or more defendants, and one or more of them shall appear in person or by a pleader or by a co-defendant duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-defendant duly authorized, the Court shall proceed with the suit to judgment, and shall at the time of passing judgment give such order, with respect to the defendant or defendants who shall not have appeared, as shall be just and proper in the circumstances of the case.

Consequence of non-appearance of one of more of several plaintiffs, or defendants.

CXVII. If any plaintiff or defendant, who shall have been ordered or summoned to appear personally under the provisions of Section 42, shall not appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, such plaintiff or defendant shall be subject to all the provisions of the foregoing Sections applicable to plaintiffs and defendants respectively, who do not appear either in person or by pleader.

Consequence of non-appearance, without sufficient cause, of any party to a suit ordered to appear in person.

CXVIII. In support of the cause shown by a plaintiff or defendant for failure to appear in person, the Court shall receive any declaration in writing on unstamped paper, if signed by such plaintiff or defendant, and verified in the manner hereinbefore provided for the verification of plaints.

Court to receive declaration in support of cause shown.

CXIX. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all cases in which judgment may be passed *ex parte* against a defendant, he may apply, within a reasonable time, not exceeding thirty days after any process for enforcing the judgment has been executed, to the Court by which the judgment was passed, for an order to set it aside; and if it shall be proved to the satisfaction of the Court, that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment, and shall appoint a day for proceeding with the suit. In all cases of judgment against a plaintiff by default, he may apply, within thirty days from the date of the judgment, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the plaintiff was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment by default, and shall appoint a day for proceeding with the suit. But no judgment shall be set aside on any such application as aforesaid, unless notice thereof have been served on the opposite party. In all cases in which the Court shall pass an order under this Section for setting aside a judgment, the order shall be final; but in all appealable cases in which the Court shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable, provided that the appeal be preferred within the time allowed for an appeal from such final decision, and be written upon stamp paper of the value prescribed for petitions to the Court where a stamp is required for petitions.

No appeal from judgments passed ex parte or by default. When and how judgment ex parte may be set aside. When and how judgment by default may be set aside. No judgment to be set aside without notice. Order for setting aside judgment to be final. In appealable cause, appeal to lie from order of rejection. Proviso.

OF WRITTEN STATEMENTS.

CXX. The parties or their pleaders may tender, at the first hearing of the suit, written statements of their respective cases, and the Court shall receive the same and put them on the record. Such statements shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required for petitions.

Written statements may be tendered at the first hearing, on stamp paper.

CXXI. If in a suit for debt the defendant desire to set off against the claim of the plaintiff the amount of any debt due to him from the plaintiff, he shall tender a written statement containing the particulars of his demand, and the Court shall thereupon enquire into the same. Provided that, if the sum claimed by the defendant exceed the amount cognizable by the Court, the defendant shall not be allowed to set-off the same, unless he abandon the excess.

Particulars of set-off to be given in a written statement. Abandonment of excess of set-off over claim.

CXXII. No written statement shall be received after the first hearing of the suit, unless called for by the Court. But it shall be competent to the Court, at any time before final judgment, to call for a written statement, or an additional written statement from any of the parties. When such statements are called for by the Court, they shall be received on plain paper.

No written statement to be received after first hearing, unless called for by the Court.

How written statements are to be framed. Written statements to be subscribed and verified.

CXXIII. Written statements shall be as brief as the nature of the case will admit, and shall not be argumentative, nor by way of answer one to the other; but each statement shall be confined, as much as possible, to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he believes he will be able to prove, if called upon by the Court. Written statements shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and no written statement shall be received, unless it be so subscribed and verified.

Court may reject a written statement if argumentative, prolix, or irrelevant.

CXXIV. If it shall appear to the Court that any written statement presented by or on behalf of a party, whether the same have been spontaneously tendered or have been called for by the Court, is argumentative, or unnecessarily prolix, or that it contains matter irrelevant to the suit, the Court may reject the same, and return it to the party with the order of rejection endorsed thereon; and it shall not be competent to a party whose written statement has been rejected for any of these causes, to present another written statement, unless it shall be expressly called for or allowed by the Court.

Of the Examination of the Parties.

Oral examination of party, &c. Oath. Substance of the examination to be written.

CXXV. At the first hearing of the suit, and if necessary at any subsequent hearing, any party who appears in person or is present in Court, or the pleader of any party who appears by a pleader, or, if the pleader be accompanied by another person able to answer all material questions relating to the suit, then such other person, may be examined orally by the Court. Such examination shall (unless the pleader be the person examined) be upon oath or affirmation, or otherwise according to the provisions of the law for the time being in relation to the examination of witnesses. The substance of the examination shall be reduced to writing and form part of the record.

Consequence of refusal of party to answer.

CXXVI. If any party who appears in person or is present in Court shall, without lawful excuse, refuse to answer any material question relating to the suit which the Court may think proper to put to such party, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Consequence of refusal or inability of pleader to answer.

CXXVII. If the pleader of any party who shall appear by a pleader shall refuse or be unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day, and direct that such party shall attend in person on such day; and if the party so directed to attend shall, without lawful excuse, fail to appear in person on the day to be so appointed, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Of the Production of Documents.

Documentary evidence to be produced at first hearing.

CXXVIII. The parties or their pleaders shall bring with them, and have in readiness at the first hearing of the suit to be produced when called upon by the Court, all their documentary evidence of every description which may not already have been filed in Court, and all documents, writings or other things which may have been specified in any notice, which may have been served on them respectively within a reasonable time before the hearing of the suit; and no documentary evidence of any kind, which the parties or any of them may desire to produce shall be received by the Court at any subsequent stage of the proceeding, unless good cause be shown to its satisfaction for the non-production thereof at the first hearing.

Exhibits to be received and inspected by the Court. Rejection of Exhibits.

CXXIX. All Exhibits produced by the parties shall be received and inspected by the Court; but it shall be competent to the Court, after inspection, to reject any Exhibit which it may consider irrelevant or otherwise inadmissible, recording the grounds of such rejection.

CXXX, CXXXI—Repealed by Act XXXVI, 1860. Section 13. Cl. 4.

Admitted Exhibits to be marked and filed Proviso.

CXXXII. When an Exhibit is received by the Court and admitted in evidence, it shall be endorsed with the number and title of the suit, the name of the party producing it and the date on which it was produced, and shall be filed as part of the record. Provided that, if the exhibit be an entry in any Shop book or other book, the party on whose behalf such book is produced shall furnish a copy of the entry, which copy shall be endorsed as aforesaid, and shall be filed as part of the record and the book shall be returned to the party producing it.

CXXIII. Repealed by Act XXVI. 1867.

Rejected Exhibits to be marked and re-

CXXXIV. When an Exhibit is rejected by the Court, it shall be endorsed in the manner specified in Section 132 with the addition of the word "rejected"

and the endorsement shall be subscribed by the Judge. The exhibit shall then be returned to the party who produced it, unless the Court shall think proper, for special reason (as on suspicion of forgery), to detain it.

turned unless detained by the Court.

CXXXV. When the time for preferring an appeal from the decision passed in the suit has elapsed, or, if an appeal has been preferred from such decision, then after the appeal has been finally disposed of, any person whether a party to the suit or not, who may be desirous of receiving back any exhibit produced by him in the suit, shall be entitled, on application to the Court in which such exhibit may be, to receive back the same, unless the further use of such exhibit has been superseded by the terms of the decree, or the Court has directed it to be detained for purposes of public justice.

Exhibit may be returned before the time limited, for special reasons. Certified copy to be kept.

CXXXVI. Any exhibit may be returned before the time mentioned in the last preceding Section, if the Court in which the document may be shall think proper, for special reasons, to order its return. But in every case a copy, properly certified, and made at the expense of the applicant, shall be substituted for the original in the record of the suit.

Receipt to be given for returned Exhibit.

CXXXVII. Whenever an exhibit once received by a Court of Justice and admitted in evidence is returned, a receipt shall be given by the party receiving it in a receipt-book kept for the purpose.

Court may send for papers. Except State papers.

CXXXVII. Any Civil Court may of its own accord, or upon the application of any of the parties to a suit, send for, either from its own record or from any other public Office or Court, the record of any other suit or case, or any other official papers (not being documents relating to affairs of State the production of which may be contrary to good policy), and inspect the same, when the inspection of such record or papers shall appear likely to elucidate the facts of the suit before the Court, and to promote the ends of justice.

Framing of issues.

OF THE SETTLEMENT OF ISSUES.

CXXXIX. At the first hearing of the suit, the Court shall enquire and ascertain upon what questions of law or fact the parties are at issue, and shall thereupon proceed to frame and record the issues of law and fact on which the right decision of the case may depend. The Court may frame the issues from the allegations of fact which it collects from the oral examination of the parties or their pleaders, notwithstanding any difference between such allegations of fact and the allegations of fact contained in the written statements, if any, tendered by the parties or their pleaders.

After the time for appeal has elapsed. exhibit admitted in evidence may be returned.

CXL. If the Court shall be of opinion that the issues cannot be correctly framed without the examination of some person other than the persons already before the Court, or without the reading of some document not produced by any of such persons, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may compel the attendance of such person, or the production of the document by the person in whose hands it may be by summons or other suitable process.

Court may examine witnesses or documents before framing the issues.

CXLI. At any time before the decision of the case, the Court may amend the issues or frame additional issues on such terms as to it shall seem fit, and all such amendments as may be necessary for the purpose of determining the real question or controversy between the parties shall be so made.

Amendment of issues. Additional issues.

OF ISSUES BY AGREEMENT OF PARTIES.

CXLII. When the parties to a suit are agreed as to the question or questions of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing, which shall not be subject to any stamp duty, that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other of them, or that upon such finding some property specified in the agreement, and in dispute in the suit, shall be delivered by one of the parties to the other of them, or that upon such finding one or more of the parties shall do or perform some particular legal act, or shall refrain from doing or performing some particular act, specified in the agreement, and having reference to the matter in dispute.

Questions of fact or law may by agreement be stated by the parties in the form of an issue.

CXLIII. If the Court shall be satisfied, after an examination of the parties or their pleaders, and taking such evidence as it may deem proper, that the agreement was duly executed by the parties and that the parties have a *bonâ fide* interest in the decision of such question, and that the same is fit to be tried and decided, it may proceed to record and try the same, and deliver its finding or opinion thereon in the same manner as if the issue had been framed by the Court, and may, upon the finding or decision on such issue, give judgment for the sum so

Court if the agreement was executed *bona fide* may give judgment.

agreed on or so ascertained as aforesaid, or otherwise according to the terms of the agreement; and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

WHEN THE SUIT MAY BE DISPOSED OF AT THE FIRST HEARING.

If the parties are not at issue on law or fact.

CXLIV. If at the first hearing of a suit it shall appear that the parties are not at issue on any question of law or fact, the Court may at once give judgment.

If the parties are at issue on questions of law or fact. Court may determine the issue and give judgment. Proviso.

CXLV. When the parties are at issue on some question of law or fact, and issues have been framed by the Court as hereinbefore provided, if the Court shall be satisfied that no further argument or evidence than such as the parties or their pleaders can at once supply is required upon any such of the issues of law or fact as may be sufficient for the decision of the suit, the Court, after hearing such argument and evidence, may proceed to determine such issue or issues, and, if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons shall have been issued for the settlement of issues only or for the final disposal of the suit; otherwise the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence or for such further argument as the the case may require. Provided, that if the summons shall have been issued for the final disposal of the suit, and either party shall fail without sufficient cause to produce the evidence on which he relies, the Court may at once give judgment.

OF ADJOURNMENTS.

Court may grant time, or adjourn. Proviso.

CXLVI. The Court may, if sufficient cause be shown, at any stage of the suit, grant time to the parties or to either of them, and may from time to time adjourn the hearing of the suit; and in all such cases the Court shall fix a day for the further hearing of the suit. Provided, that in all such cases the party applying for time shall pay the costs occasioned by such adjournment, unless the Court shall otherwise direct.

How the court is to proceed, if the parties fail to appear.

CXLVII. If, on any day to which the hearing of the suit may be adjourned the parties or either of them shall not appear in person or by pleader, the Court may proceed to dispose of the suit in the manner specified in Section 110, Section 111, or Section 114 as the case may be, or may make such other order as may appear to be just and proper in the circumstances of the case.

Court to decide, notwithstanding either party fail to produce proofs or witnesses.

CXLVIII. If either party to a suit to whom time may have been granted shall fail to produce his proofs, or to cause the attendance of his witnesses, or to perform any other act for which time may have been allowed, the Court shall proceed to a decision of the suit on the record, notwitnstanding such default.

OF SUMMONING WITNESSES.

Application for summons.

CXLIX. The parties or their pleaders may, at any time after the issue of the summons to the defendant, if the summons be for the final disposal of the suit, or after the issues have been recorded, if the summons to the defendant be for the settlement of issues only, obtain, on application to the Court, summonses to witnesses or other persons to attend either to give evidence or to produce documents, and in any such summons the names of any number of persons may be inserted.

CL. Repealed by Act XXVI. of 1867.

Expenses of witnesses to be paid before issue of summons.

CLI. The person applying for a summons shall pay into Court such a sum of money as shall appear to the Court to be reasonable, to defray the travelling and other expenses of each witness or other person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) established by the Court to which such Court shall be immediately subordinate. The sum so paid into Court shall be tendered to the witness or other persons at the time of serving the summons, if it can be served personally. If it shall appear to the Court that the sum paid into Court on account of the travelling and other expenses of the witness or other person in passing to and from the Court is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the witness or other person as may appear to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same, or may discharge the witness without requiring him to give evidence. If it shall be necessary to detain the witness or other person summoned for a longer period than one day, the Court may from time to time order the party at whose instance he was summoned to pay into Court such sum as may be sufficient to defray the expenses of his detention for such further period, and in default of such deposit being made, may order the witness to be discharged without requiring him to give evidence.

Tender.

Insufficiency of sum.

Detention of witness.

CLII. Every summons for the attendance of a witness or other person shall specify the time and place at which he his required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the witness or other person may be called on to produce shall be described in the summons with convenient certainty.

Time, place and purpose of attendance to be specified.

CLIII. Any person, whether a party to a suit or not, may be summoned to produce a document, without being summoned to give evidence; and any person, summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

Summons to produce a document.

SERVICE OF SUMMONS ON A WITNESS.

CLIV. Every summons to a witness or other person shall be served by exhibiting the original, and delivering or tendering a copy; and the service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the witness or other person, to allow him a reasonable time for preparation, and for travelling to the place at which his attendance is required.

How and when the summons shall be served.

CLV. Whenever it may be practicable, the service of the summons shall be upon the person thereby required to attend, but when he cannot be found, the service may be made on any adult male member of his family residing with him

Service to be on whom.

CLVI. When the person required to attend cannot be found, and there is no adult male member of his family on whom the summons can be served, the serving Officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve it.

When the summons cannot be served, it is to be returned.

CLVII. The serving Officer shall, in all cases, in which the summons has been served, endorse on the original summons the time when and the manner in which it was served.

Time and manner of service to be endorsed.

CLVIII. If the person required to attend be resident within the the jurisdiction of any other Court than that in which the suit is pending, the summons shall be transmitted by the Court in which the suit is pending, to any Court having jurisdiction at the place where the witness resides, by which it can be most conveniently served; and the Court to which the summons is sent shall, upon receipt thereof, deliver the same to the Nazir or other proper officer of such Court, to be served in the manner above directed: and upon the return of the summons by the serving Officer, it shall be transmitted to the Court from whence it originally issued.

Service on a witness who resides in another jurisdiction.

CLIX. If the summons for the attendance of any person either to give evidence or to produce a document cannot be served in either of the ways hereinbefore specified, the Court, on being certified thereof by the return of the serving Officer, and upon proof that the evidence of such witness or the production of the document is material, and that the witness or other person absconds or keeps out of the way for the purpose of avoiding the service of the summons, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document, at a time and place to be named therein, to be affixed in some conspicuous place upon his house or place of abode; and if such person shall not attend at the time and place named in such proclamation, the Court may, at the instance of the party on whose application the summons was issued, make an order for the attachment of the moveable and immoveable property of such person, to such amount as the Court shall deem reasonable, not being in excess of the amount of the costs of attachment and of any fine to which the person may be liable under the provisions of the following Section.

When a witness absconds, his property may be attached.

CLX. If, on the attachment of the property, such witness or other person shall appear and satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as it shall deem fit. If such witness or other person shall not appear, or appearing shall fail to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not such a notice of the proclamation as aforesaid, it shall be lawful for the Court to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Court may impose upon such witness or other person under the provisions of any law for the time being in force for the punishment of a witness who may abscond or keep out of the way in order to avoid the service of a summons. If the witness or other person shall pay into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

How to proceed with the witness on his appearance.

Of the Examination of Parties as Witnesses.

A party to a suit appearing in person may be examined.

CLXI. When a party to a suit appears in person at any hearing of the suit, he may be examined as a witness, either in his own behalf or on behalf of any other party to the suit, in the same way as if he were not a party thereto.

Special application for examination of a party as a witness.

CLXII. If any party to a suit shall require to enforce the attendance of any other party thereto as a witness, he shall, by himself or his pleader, make a special application to the Court for an order requiring the attendance of the party, and shall show, to the satisfaction of the Court, sufficient grounds in support of such application, otherwise a summons shall not be issued.

The Court may first issue a notice to show cause.

CLXIII. The Court, if it think fit, may, before making such order, cause notice to be given to the party or his pleader, fixing a day for such party to show cause why he should not attend and give evidence; and may also, from time to time, if necessary, for good and sufficient reason, enlarge the time for such purpose.

Court shall receive a written declaration in support of the cause shown.

CLXIV. In support of the cause shown, the Court shall receive any declaration in writing of the party, on unstamped paper, if signed by him and verified in the manner hereinbefore provided for the verification of plaints, and delivered into the Court by himself or his pleader.

If cause not sufficient summons to issue.

CLXV. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall issue its order requiring the party to attend and give evidence.

Court may of its own accord at any time summon a witness.

CLXVI. If the Court shall think it necessary for the ends of justice to examine any party to the suit or to inspect any document in his possession or power, the Court may, of its own accord, in any stage of the suit, cause such party to be summoned to attend as a witness to give evidence, or to produce such document if in his possession or power, on a day to be appointed in the summons, and may examine such party as a witness in open Court, or may cause such party to be examined in such other manner as the Court may direct.

Attendance of Witnesses and consequence of non-attendance.

Witnesses summoned must attend.

CLXVII. Any person who shall be summoned to appear and give evidence in a suit shall be bound to attend at the time and place named in the summons for that purpose.

Consequences of non-attendance

CLXVIII. If any person, on whom any summons to give evidence or produce a document shall have been served in either of the ways specified in Section 155 shall, without lawful excuse, fail to comply with the summons, the Court may order such person to be apprehended and brought before the Court. If such person abscond or keep out of the way, so that he cannot be apprehended or brought before the Court, his property shall be liable to attachment and sale in the manner and subject to the rules provided in Sections 159 and 160 with respect to a witness or other person on whom the service of a summons cannot be effected.

Consequence of refusal to give evidence.

CLXIX. If any witness, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may commit such witness to close custody for such reasonable time as it may deem proper, unless he shall, in the meantime, consent to give his evidence, or to produce the document. If after the expiration of such time the witness shall persist in his refusal, the Court may proceed to deal with him according to the provisions of any law for the time being in force for the punishment of persons refusing to give evidence.

Consequence of non-attendance or refusal of a party to the suit to give evidence.

CLXX. If any person, being a party to the suit, who shall be ordered to attend to give evidence or produce a document, shall, without, lawful excuse, fail to comply with such order, or, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may either pass judgment against the party so failing or refusing, or make such other order in relation to the suit as the Court may deem proper in the circumstances of the case.

Any person present in Court may be called upon to give evidence.

CLXXI. Any person present in Court, whether a party to the suit or not, may be called upon by the Court to give evidence and to produce any document then and there in his actual possession or in his power, in the same manner and subject to the same rules if he had been summoned to attend and give evidence or to produce such document, and shall be liable to be dealt with by the Court as a party or witness, as the case may be, would, under any of the preceding provisions, be liable to be dealt with for any refusal to obey the order of the Court.

WHEN AND HOW WITNESSES ARE TO BE EXAMINED.

CLXXII. On the day appointed for the hearing of the suit or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court, in the presence and hearing and under the personal direction and superintendence of the Judge. In cases in which an appeal lies to a higher tribunal, the evidence of each witness given upon such examination shall be taken down in writing, in the language in ordinary use in proceedings before the Court, by or in the presence and under the personal rection and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties to the suit or their pleaders, or such of them as are in attendance, and shall, if necessary, be corrected, and shall be signed by the Judge. If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down in writing to be interpreted to him in the language in which it was given. Where all the parties to the suit present, and the pleaders of such as are absent, consent to have such evidence as is given in English taken down in English, the Judge may so take it down in his own hand. It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing or any party or his pleader shall require it. If any question put to a witness be objected to by either of the parties or their pleaders, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Court shall record such remarks as it may think material respecting the demeanour of the witness while under examination. In cases in which the evidence is not taken down, in writing by the Judge himself, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall accompany the record. In cases in which an appeal does not lie to a higher tribunal, it shall not be necessary to take down the depositions of the witnesses in writing at length ; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record. If the Judge shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and in cases not appealable shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall from part of the record.

Witness to be examined at the hearing in open Court.

Evidence how to be taken in appealable cases.

Objection to questions.

Memorandum of substance of evidence to be made by Judge.

Evidence how to be taken in cases not appealable.

CLXXIII. If a witness be about to leave the jurisdiction of the Court, or other good and sufficient cause can be shown to the satisfaction of the Court why his examination should be taken immediately, it shall be competent to the Court, upon the application of either party or of the witness, at any time after the institution of the suit, to take the examination of such witness forthwith, or on any day that may be fixed for that purpose, of which due notice shall be given to the parties if the day be fixed in their absence. The witness shall be examined, and his deposition shall be taken down in writing, in the manner hereinbefore prescribed : and the deposition so taken down may be read in evidence at any hearing of the suit.

A witness may for sufficient cause be examined immediately.

CLXXIV. All witnesses shall be examined upon oath or affirmation or otherwise, according to the provisions of the law for time being in force in relation to the examination of witness.

Witness to be examined upon oath, or according to the law for the time being.

OF COMMISSIONS TO EXAMINE ABSENT WITNESSES AND MAKE LOCAL ENQUIRES.

CLXXV. When the evidence of a witness is required who is resident at some place distant more than a hundred miles from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Court to be personally examined, or is a person exempted by reason of rank or sex from personal appearance in Court ; the Court may, of its own motion, or on the application of any of the parties to the suit, or on the representation of the witness, order a Commission to issue for the examination of such witness on interrogatories or otherwise ; and may, by the same or any subsequent order, give all such directions for taking such examinations as may appear reasonable and just. If the witness be resident within the jurisdiction of the Court issuing the Commission, the Com-

Cases in which Court may issue a Commission to examine witnesses.

When the witness resides within the jurisdiction of the Court.

mission may be issued to any officer of the Court, or to any subordinate Court, or to any other person or persons whom the Court issuing the Commission may think proper to appoint. If the witness be resident at some place which is beyond the jurisdiction of the Court issuing the Commission, and not within the local jurisdiction of Her Majesty's Supreme Court, but within the jurisdiction of the Sudder Court, the Commission shall ordinarily be issued to the Court within whose jurisdiction the witness may reside, and which can most conveniently execute the same; but, under special circumstances, the Commission may be issued to any other person or persons whom the Court issuing the Commission may think proper to appoint.

When within the jurisdiction of the Sudder Court.

CLXXVI. If the witness be resident within the local jurisdiction of Her Majesty's Supreme Court, the Commission shall ordinarily be issued to the Court of Small Causes held under Act IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay*), but may, under special circumstances, be directed to any person or persons whom the Court issuing the Commission may think proper to appoint.

When within the jurisdiction of the Supreme Court.

CLXXVII. When the evidence of a witness is required, who is resident at some place not within the jurisdiction of the Sudder Court or of Her Majesty's Supreme Court, but within the British territories in India or within the territories of a Native Prince or State in alliance with the British Government, the Court, if it be satisfied that the evidence of such witness is necessary, may, of its own motion or on the representation of any of the parties to the suit, issue a Commission for the examination of the witness; Provided that, if the suit be pending in any Court subordinate to the principal Civil Court of a District, such subordinate Court shall not issue the Commission, but the principal Civil Court of the District may issue the Commission on the application of the subordinate Court.

When witness is not within the jurisdiction of the Sudder or Supreme Court, but within the British Territories or those of any Native allied Prince or State.

CLXXVIII. When the evidence of a witness is required, who is resident at some place beyond the said territories and not within the territories of a Native Prince or State in alliance with the British Government, the Sudder Court, if the suit in which the evidence of the witness is required be pending in that Court and the Court be satisfied that such evidence is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a Commission to examine the witness; if the suit be not pending in the Sudder Court, that Court may issue the Commission on the application of the Court in which the suit is pending. In all such cases, the Commission may be issued to any person or persons whom the Sudder Court may think proper to appoint.

When witness is not within either of the said territories.

CLXXIX. After the Commission has been duly executed, it shall be returned, together with the deposition of the witness who may have been examined thereunder, to the Court out of which the Commission issued, unless otherwise directed by the order for issuing the Commission; in which case it shall be returned in terms of such order, and the Commission and the return thereto and the deposition of the witness who may have been examined under such Commission shall in all cases form part of the record of the suit. But no deposition taken under a Commission shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant without collusion more than a hundred miles from the place where the Court is is held, or exempted by reason of rank or sex from personal appearance in Court or unless the Court shall, at its discretion, dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence, notwithstanding proof that the causes for taking such deposition have ceased at the time of reaping the same.

Commission to be returned to the Court, with the depositions. When depositions may be read in evidence.

CLXXX. In any suit or other judicial proceeding in which the Court may deem a local investigation to be requisite or proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of any mesne profits or damages, the Court may issue a Commission to an officer of the Court appointed to execute such Commissions, or, if there be no such officer, to any suitable person, directing him to make such investigation and to report thereon to the Court. In all such cases, unless otherwise directed by the order of appointment the Commissioner shall have power to examine any witnesses who may be produced to him by the parties or any of them, the parties themselves, and any other persons whom he may think proper to call upon to give evidence in the matters referred to him; and also to call for and examine documents and other papers relevant to the subject of inquiry; and persons not attending on the requisition of the Commissioner, or refusing to give their testimony or to produce any documents or other papers, shall be subject to the like disadvantages, penalties and punishments, by order of the Court on the report of the Commissioner, as they would incur for the same offences in suits tried before the Court. The Commissioner

Commission for local investigations. The report and depositions to be taken as evidence. Commissioner may be examined.

after such local inspection as he may deem necessary, and after reducing to writing, in the manner hereinbefore prescribed for taking the depositions of witness in the presence of the Judge, the depositions taken by him, shall return the depositions, together with his report in writing subscribed with his name, to the Court. The report and depositions shall be taken as evidence in the suit and shall form part of the record; but it shall be competent to the Court, or to the parties to the suit or any of them, with the permission of the Court, to examine the Commissioner personally in open Court, touching any of the matters referred to him or mentioned in his report, or the manner in which he may have conducted the investigation.

A Commissioner may be appointed to investigate accounts.

CLXXXI. In any suit or other judicial proceeding in which an investigation or adjustment of accounts may be necessary, it shall be lawful for the Court to appoint such officer or other person as aforesaid to be a Commissioner for the purpose of making such investigation or adjustment, and to direct that the parties or their attorneys or pleaders shall attend upon the Commissioner during such investigation or adjustment. In all such cases, the Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as may appear necessary for his information and guidance; and the instructions shall distinctly specify, whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry, or also to report his own opinion on the point referred for his investigation. The proceedings of the Commissioner shall be received in evidence in the case, unless the Court may have reason to be dissatisfied with them, in which case the Court shall make such further inquiry as may be requisite, and shall pass such ultimate judgment or order as may appear to it to be right and proper in the circumstances of the case.

Expenses of Commission to be paid into Court, before issue thereof.

CLXXXII. Whenever a Commission is issued either for taking evidence or for a local investigation or an investigation into accounts, the Court, before issuing the Commission, may order such sum as may be thought reasonable for the expenses of the Commission to be paid into Court by the party at whose instance or for whose benefit the Commission is issued.

OF JUDGMENT AND DECREE.

When judgment is to be pronounced.

CLXXXIII. When the exhibits have been perused, the witnesses examined, and the parties heard in person or by their respective pleaders, the Court shall pronounce its Judgment. The Judgment shall be pronounced in open Court, either immediately or on some future day of which due notice shall be given to the parties or their pleaders.

Judgment to be in the vernacular language of the Judge. Proviso.

* CLXXXIV. The judgment shall be written in the vernacular language of the Judge. Provided that, if the vernacular language of the Judge be not English, and the Judge be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, and prefer to write his judgment in it, the judgment may be written in English.

Judgment what to contain, Judgment to be translated.

CLXXXV. The judgment shall contain the point or points for determination, the decision thereupon. and the reasons for the decision, and shall be dated and signed by the Judge in open Court at the time of pronouncing it. Whenever the judgment is written in any other language than that which is in ordinary use in the Court, the judgment shall be translated into the language in ordinary use in the Court, and the translations shall also be signed by the Judge.

Court to state its decision on each issue. Proviso.

CLXXXVI. In all suits in which issues have been framed, the Court shall state its finding or decision on each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

Judgment to direct by whom costs are to be paid.

CLXXXVII. The judgment shall in all cases direct by whom the costs of each party are to be paid, whether by himself or by another party, and whether in whole or in what part or proportion; and the Court shall have full power to award and apportion costs in any manner it may deem proper.

What is included under the term "costs."

CLXXXVIII. Under the denomination of costs are included the whole of the expenses necessarily incurred by either party on account of the suit and in enforcing the decree passed therein, such as the expense of stamps, of summoning the defendants and witnesses, and of other processes, or of procuring copies of documents, fees of pleaders, charges of witnesses, and expenses of Commissioners, either in taking evidence or in local investigations or in investigations into accounts.

Decrees.

CLXXXIX. The decree shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, as stated in the Register of the suit, and

* This and following Two Sections and Section 359 suspended as regards the High Court by Act XX. 1862 Section 5.

shall specify clearly the relief granted or other determination of the suit. It shall also state the amount of costs incurred in the suit, and by what parties and in what proportions they are to be paid, and shall be signed by the Judge and sealed with the seal of the Court.

Decree for a portion of immoveable property.

CXC. When the suit is for land or other immoveable property with specified boundaries, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries of the land or property adjudged.

Decree for moveable property.

CXCI. When the suit is for moveable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had.

Decree for damages for breach of contract.

CXCII. When the suit is for damages for breach of contract, if it appear that the defendant is able to perform the contract, the Court with the consent of the plaintiff may decree the specific performance of the contract within a time to be fixed by the Court, and in such case shall award an amount of damages to be paid as an alternative if the contract is not performed.

CXCIII. Repealed by Act XXIII, 1861, Sec. 1.

Payment by instalments.

CXCIV. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments with interest.

If set-off be allowed. Effect of decree.

CXCV. If the defendant shall have been allowed to set-off any demand against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which shall appear to be due to either party. The decree of the Court with respect to any sum awarded to the defendant shall have the same effect, and be subject to the same rules, as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

When the suit is for land, the Court may provide for payment of mesne profits with interest.

CXCVI. When the suit is for land or other property paying rent, the Court may provide in the decree for the payment of mesne profits or rent on such land or other property, from the date of the suit until the date of delivery of possession to the decree-holder, with interest thereupon at such rate as the Court may think proper.

Court may determine amount of mesne profits, or may reserve enquiry.

CXCVII. When the suit is for land and for mesne profits which have accrued thereon during a period prior to the date of suit, and the amount of such profits is disputed, the Court may either determine the amount prior to passing a decree for the land, or may pass a decree for the land and reserve the enquiry into the amount of mesne profits for the execution of the decree, according as may appear most convenient.

Certified copies of the decree and judgment to be furnished.

CXCVIII. Certified copies of the decree and judgment shall be furnished to the parties or their pleaders on application to the Court, and on the production of the necessary stamps, where stamps are required by any law for the time being in force. The application may be made either orally or by writing on unstamped paper. *

CHAPTER IV.

EXECUTION OF DECREES.

Decree for immoveable property.

CXCIX. If the decree be for land or other immoveable property, the same shall be delivered over to the party to whom it shall have been adjudged.

Decree for moveable property, performance of contract, or alternative.

CC. If the decree be for any specific movable, or for the specific performance of any contract, or for the performance of any other particular act, it shall be enforced by the seizure, if practicable, of the specific moveable and the delivery thereof to the party to whom it shall have been adjudged, or by imprisonment of the party against whom the decree is made, or by attaching his property and keeping the same under attachment until further order of the Court, or by both imprisonment and attachment, if necessary; or if alternative damages be awarded, by levying such damages in the mode hereinafter provided for the execution of a decree for money.

Decree for money.

CCI. If the decree be for money, it shall be enforced by the imprisonment of the party against whom the decree is made, or by the attachment and sale of his property, or by both if necessary; and if such party be other than a defendant, the decree may be enforced against him in the same manner as a decree may be enforced under the provisions of this Chapter against a defendant. When the decree is against Government or against any Officer acting on behalf of Government, if the Officer whose duty it is to satisfy the decree neglect or refuse to satisfy the same, the Court shall report the case through the Sudder Court for the orders of Government, and execution shall not issue on the decree, unless the same shall remain unsatisfied for the space of three months from the date of such report.

* Partly repealed by Act XXVI. 1867.

CCII. If the decree be for the execution of a conveyance or for the endorsement of a negotiable instrument, and the party ordered to execute or endorse such conveyance or negotiable instrument shall neglect or refuse so to do, any party interested in having the same executed or endorsed may prepare a conveyance or endorsement of the instrument in accordance with the terms of the decree, and tender the same to the Court, for execution upon the proper stamp (if any is required by law), and the signature thereof by the Judge shall have the same effect as the execution or endorsement thereof by the party ordered to execute.

Decrees for execution of conveyance or endorsement of negotiable instruments.

CCIII. If the decree be against a party as the representative of a deceased person, and such decree be for money to be paid out of the property of the deceased person, it may be executed by the attachment and sale of any such property, or, if no such property can be found and the defendant fail to satisfy the Court that he has duly applied such property of the deceased as shall be proved to have come into his possession, the decree may be executed against the defendant to the extent of the property not duly applied by him, in the same manner as if the decree had been against the defendant personally.

Decree against representatives of deceased persons.

CCIV. Whenever a person has become liable as security for the performance of a decree or of any part thereof, the decree may be executed against such person to the extent to which he has rendered himself liable, in the same manner as a decree may be enforced against a defendant.

Decree against sureties.

CCV. The following property is liable to attachment and sale in execution of a decree, namely, lands, houses, goods, money bank-notes, cheques, bills of exchange, promissory notes, Government securities, bonds, or other securities for money, debts, shares in the capital or joint-stock of any Railway, Banking, or other Public Company or Corporation, and all other property whatsoever, moveable or immoveable, belonging to the defendant, and whether the same be held in his own name or by another person in trust for him, or on his behalf.

What property liable to attachment and sale in execution.

CCVI. All monies payable under a decree shall be paid into the Court whose duty it is to execute the decree, unless such Court or the Court which passed the decree shall otherwise direct. No adjustment of a decree in part or in whole shall be recognized by the Court, unless such adjustment be made through the Court, or be certified to the Court by the person in whose favour the decree has been made or to whom it has been transferred.

Payment of monies under decrees, &c. Adjustment of decree to be made through the Court.

APPLICATION FOR EXECUTION.

CCVII. When any party in whose favour a decree has been made is desirous of enforcing the same, he shall apply to the Court whose duty it is to execute the decree, either in person or through his pleader in the suit, or some other pleader duly appointed to act for him in that behalf. If there be two or more decree-holders, one or more of them may make the application, if the Court shall see sufficient cause for allowing him or them to make such application; and the Court shall in such case pass such order as it may deem necessary for protecting the interests of the other decree-holders.

Application for execution how to be made.

CCVIII. If a decree shall be transferred by assignment or by operation of law from the original decree-holder to any other person, application for the execution of the decree may be made by the person to whom it shall have been so transferred or his pleader; and if the Court shall think proper to grant such application, the decree may be executed in the same manner as if the application were made by the original decree-holder.

Application by whom to be made, if decree be transferred.

CCIX. If there be cross-decrees between the same parties for the payment of money, execution shall be taken out by that party only who shall have obtained a decree for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum, and if both sums shall be equal, satisfaction shall be entered upon both decrees.

Cross-decrees.

The above rules shall apply to decrees sent to a Court for execution as well as to decrees in the same Court.

Whenever a suit shall be pending in any Court against the holder of a decree of such Court, by the person or by persons against whom the decree was passed, the Court may, if it appear just and reasonable to do so, stay execution on the decree, either absolutely or on such terms as it may think just, until a decree shall be passed in the pending suit.

CCX. If any person against whom a decree has been made shall die before execution has been fully had thereon, application for execution thereof may be made against the legal representative or the estate of the person so dying as aforesaid; and if the Court shall think proper to grant such application, the decree may be executed accordingly.

If judgment debtor shall die before execution, application may be made against his legal representative or estate.

Decree how to be executed against legal representative.

CCXI. If the decree be ordered to be executed against the legal representative, it shall be executed in the manner provided in Section 203 for the execution of a decree for money to be paid out of the property of a deceased person.

Form of application for execution of a decree.

CCXII. The application for execution of a decree shall be in writing, and shall contain in a tabular form the following particulars, namely, the number of the suit, the names of the parties, the date of the decree, whether any appeal has been preferred from the decree, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree ; the amount of the debt or damages due upon it, or other relief granted by the decree ; the amount of costs, if any were awarded ; the name of the person against whom the enforcement of the decree is sought ; and the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, the arrest and imprisonment of the person named, or attachment of his property, or otherwise as the case may be.

Further particulars, when the application is for an attachment of immoveable property.

CCXIII. When the application is for an attachment of any land or other immoveable property belonging to the defendant, it shall be accompained with an inventory or list of such property, containing such a description of the property as may be sufficient to identify it, together with a specification of the defendant's share or interest therein, to the best of the applicant's belief and so far as he has been able to ascertain the same. And where the property is an estate paying revenue to Government or any portion of such estate, the application for an attachment shall be accompanied with an authenticated extract from the Register of the Collector's Office, specifying the Revenue of such estate, and the names and (where registered) the shares of the registered proprietors.

The application for an attachment of moveable property may be general, or accompanied with an inventory.

CCXIV. Where the application is for an attachment of the defendanty moveable property or any part thereof, it may be accompained with an inventors or list of the property to be attached, containing a reasonably accurate description thereof ; or the applicant may apply for a general attachment of the defendant's moveable property wheresoever the same can be found, to the amount of the judgment and costs.

CCXV. Repealed by Act XXIII, 1861, Section I.

MEASURES REQUIRED IN CERTAIN CASES PRELIMINARY TO THE ISSUE OF THE WARRANT.

In special cases, notice to show cause why the decree should not be executed shall be issued. Proviso.

CCXVI. If an interval of more than one year shall have elapsed between the date of the decree and the application for its execution, or if the enforcement of the decree be applied for against the heir or representative of an original party to the suit, the Court shall issue a notice to the party against whom execution may be applied for, requiring him to show cause, within a limited period to be fixed by the Court, why the decree should not be executed against him. Provided, that no such notice shall be necessary in consequence of an interval of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of the last order passsed on any previous application for execution ; and provided further, that no such notice shall be necessary in consequence of the application being against an heir or representative, if upon a previous application for execution against the same person, the Court shall have ordered execution to issue against him.

Procedure after issue of notice.

CCXVII. When such notice is issued, if the party shall not attend in person or by a pleader, or shall not show sufficient cause to the satisfaction of the Court why the decree should not be forthwith executed, the Court shall order it to be executed accordingly. If the party shall attend in person or by a pleader, and shall offer any objection to the enforcement of the decree, the Court shall pass such order as in the circumstances of the case may appear to be just and proper.

Application for a general attachment of moveable property.

CCXVIII. Where the application is for a general attachment of the moveable property of the defendant, it shall be competent to the Court, if it shall think proper, before issuing an order for such attachment, to require the applicant to give security to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any other person than the defendant.

Before granting order, Court may make certain enquiries.

CCXIX. Before granting the order for a general attachment, or, at the instance of the plaintiff, at any time after judgment and before complete execution of the decree, the Court may summon the person against whom the application is made and examine him as to the property liable to be seized in satisfaction of the judgment. The Court may also, of its own motion or at the instance of any person interested in the enquiry, summon any other person whom it may think

necessary and examine him in respect to such property, and may require the person summoned to produce all deeds and documents in his possession or power relating to such property.

CCXX. In all cases in which a summons may be issued for the attendance of a party to a suit or any other person at any time after judgment, the rules applicable to the summoning and examination of parties and witnesses after issues recorded shall apply to the party or witnesses so summoned.

Rules as to the summoning and examination of parties and witnesses after judgment.

ISSUE OF THE WARRANT.

CCXXI. When all necessary perliminary measures have been taken, where any such are required, the Court, unless it see cause to the contrary, shall issue the proper warrants for the execution of the decree.

Warrant when to issue.

CCXXII. Every warrant for the execution of a decree shall bear the date of the day on which it is issued, and shall be signed by the Judge and sealed with the seal of the Court, and delivered to the Nazir or other proper officer of the Court. A day shall be specified in the warrant on or before which it must be executed, and the Nazir or other proper officer shall endorse upon the warrant the day and the manner in which it was executed, or, if it was not executed, the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

Latest day of execution to be written in warrant, and time and manner of execution to be endorsed.

OF THE EXECUTION OF DECREES FOR IMMOVEABLE PROPERTY.

CCXXIII. If the decree be for a house, land, or other immoveable property in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the institution of the suit, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been adjudged, or any person whom he may appoint to receive delivery on his behalf in possession thereof, and if need be, by removing any person who may refuse to vacate the same.

How immoveable property is to be delivered, when in the occupancy of a defendant or of some person under him.

CCXXIV. If the decree be for land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the warrant in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, the substance of the decree in regard to the property.

How it is to be delivered, when in the occupancy of ryots.

CCXXV. If the decree be for the division of an estate, or for the separate possession of a share of an undivided estate paying revenue to Government, the division of the estate or the separation of the share shall be made by the Collector under orders of the Court, according to the rules in force for the partition of an estate paying revenue to Government.

Division of estate or separation of share, how to be made.

CCXXVI. If in the execution of a decree for land or other immoveable property, the Officer executing the same shall be resisted or obstructed by any person, the person in whose favor such decree was made may apply to the Court at any time within one month from the time of such resistance or obstruction. The Court shall fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

Obstruction to execution of decree for immoveable property.

CCXXVII. If it shall appear to the satisfaction of the Court that the obstruction or resistance was occasioned by the defendant, or by some person at his instigation, on the ground that the land or other immoveable property is not included in the decree, or on any other ground, the Court shall enquire into the matter of the complaint and pass such order as may be proper under the circumstances of the case.

Obstruction by defendant.

CCXXVIII. If the Court shall be satisfied, after such investigation of the facts of the case as it may deem proper, that the resistance or obstruction complained of was without any just cause, and that the complainant is still resisted or obstructed in obtaining effectual possession of the property adjudged to him by the decree, by the defendant or some person at his instigation, the Court may, at the instance of the plaintiff, and without prejudice to any proceedings to which such defendant or other person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, commit the defendant or such other person to close custody for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance.

How defendant may be dealt with if he persists.

CCXXIX. If it shall appear to the satisfaction of the Court that the resistance or obstruction to the execution of the decree has been occasioned by any person, other than the defendant, claiming *bonâ fide* to be in possession of the property on his own account or on account of some other person than the defen-

Obstruction by a bona fide claimant, not defendant.

dant, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant, and the Court shall, without prejudice to any proceedings to which the claimant may be liable under any law for the time being in force for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of this Act, and shall pass such order for staying execution of the decree, or executing the same, as it may deem proper in the circumstances of the case.

Procedure in certain cases, if person dispossessed dispute the right of decree-holder to be put into possession.

CCXXX. If any person other than the defendant shall be dispossessed of any land or other immoveable property in execution of a decree, and such person shall dispute the right of the decree-holder to dispossess him of such property under the decree on the ground that the property was *bonâ fide* in his possession, on his own account or on account of some other person than the defendant, and that he was not a party to the suit in which the decree was passed, he may apply to the Court within one month from the date of such dispossession ; and if, after examining the applicant, it shall appear to the Court that there is probable cause for making the application, the application shall be numbered and registered as a suit between the applicant as plaintiff, and the decree-holder as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like powers as if a suit for the property had been instituted by the applicant against the decree-holder.

Appeal from decision under the last two Sections.

CCXXXI. The decision passed by the Court under either of the last two Sections shall be of the same force as a decree in an ordinary suit, and shall be subject to appeal under the rules applicable to appeals from decrees ; and no fresh suit shall be entertained in any Court between the same party or parties claiming under them in respect of the same cause of action.

Of the Execution of Decrees for Money by Attachment of Property.

Attachment of property in execution of decree for money.

CCXXXII. If the decree be for money, and the amount thereof is to be levied from the property of the person against whom the same may have been pronounced, the Court shall cause the property to be attached in the manner following.

Attachment by seizure of moveable property in possession of defendant.

CCXXXIII. Where the property shall consist of goods, chattels, or other moveable property in the possession of the defendant, the attachment shall be made by actual seizure, and the Nazir or other officer shall keep the same in his own custody, or in the custody of his subordinates, and be responsible for the due custody thereof.

Attachment, by prohibitory order, of moveable property to which defendant is entitled subject to a lien.

CCXXXIV. Where the property shall consist of goods, chattels, or other moveable property to which the defendant is entitled, subject to a lien or right of some other person to the immediate possession thereof, the attachment shall be made by a written order prohibiting the person in possession from giving over the property to the defendant.

Attachment, by prohibitory order, of immoveable property.

CCXXXV. Where the property shall consist of lands, houses, or other immoveable property, the attachment shall be made by a written order prohibiting the defendant from alienating the property by sale, gift, or in any other way, and all persons from receiving the same by purchase gift, or otherwise.

Attachment, by prohibitory order, of debts not being negotiable instruments, and of shares in public Companies, &c.

CCXXXVI. Where the property shall consist of debts not being negotiable instrument, or of shares in any Railway, Banking, or other public Company or Corporation, the attachment shall be made by a written order prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person whomsoever, until the further order of the Court, or prohibiting the person in whose name the shares may be standing from making any transfer of the shares or receiving payment of any dividends thereof, and the Manager, Secretary, or other proper officer of the Company or Corporation from permitting any such transfer or making any such payment, until such further order.

Attachment, by notice, of money or Securities in deposit in a Court of Justice or with a Government Officer.

Proviso.

CCXXXVII. Where the property shall consist of money or of any security, in deposit in any Court of Justice or in the hands of any officer of Government, which is or may become payable to the defendant or on his behalf, the attachment shall be made by a notice to such Court or effect, requesting that the money or security may be held subject to the further order of the Court by which the notice may be issued. Provided that, if such money or security is in deposit in any Court of Justice, any question of title or priority which may arise between the decree-holder and any other person, not being the defendant, claiming to be interested in such money or security by virtue of any assignment, attachment, or otherwise, shall be determined by the Court in which such money or security is in deposit.

CCXXXVIII. Where the property shall consist of a negotiable instrument, the attachment shall be made by actual seizure, and the Nazir or other officer shall bring the same into Court, and such instrument shall be held subject to the further orders of the Court.

Attachment of negotiable instruments by seizure.

CCXXXIX. In the case of goods, chattels, or other moveable property not in the possession of the defendant, the written order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the person in possession of the property. In the case of lands, houses, or other immoveable property, the written order shall be read aloud at some place on or adjacent to such lands, houses, or other property, and shall be fixed up in some conspicuous part of the Court-house; and when the property is land or any interest in land, the written order shall also be fixed up in the office of the Collector of the Zillah in which the land may be situated. In the case of debts, the written order shall be fixed up in some conspicuous part of the Court-house, and copies of the written order shall be delivered or sent registered by post to each individual debtor. And in the case of shares in the capital or joint-stock of any Railway, Banking, or other public Company or Corporation, the written order shall in like manner be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the Manager, Secretary, or other proper officer of the Company or Corporation.

Prohibitory order, how to be made known.

CCXL. After any attachment shall have been made by actual seizure, or by written order as aforesaid, and in the case of an attachment by written order, after it shall have been duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift, or otherwise, and any payment of the debt or debts or dividends or shares to the defendant, during the continuance of the attachment, shall be null and void.

Any private alienation after attachment to be void.

CCXLI. In every case in which a debtor shall be prohibited from making payment of his debt to the creditor, he may pay the amount into Court, and such payment shall have the same effect as payment to the party entitled to receive the debt.

Payment into Court by a debtor prohibited from making payment to his creditor.

CCXLII. In all cases of attachment under the preceding Sections, it shall be competent to the Court, at any time during the attachment, to direct that any part of the property so attached as shall consist of money or bank-notes, or a sufficient part thereof, shall be paid over to the party applying for execution of the decree; or that any part of the property so attached as may not consist of money or bank-notes, so far as may be necessary for the satisfaction of the decree, shall be sold, and that the money which may be realized by such sale, or a sufficient part thereof, shall be paid to such party.

The Court may direct money or bank notes to be paid to the plaintiff; or other attached property to be sold, and proceeds to be paid to him.

CCXLIII. When the property attached shall consist of debts due to the party who may be answerable for the amount of the decree, or of any lands, houses, or other immoveable property, it shall be competent to the Court to appoint a Manager of the said property, with power to sue for the debts, and to collect the rents or other receipts and profits of the lands or other immoveable property, and to execute such deeds or instruments in writing as may be necessary for the purpose, and to pay and apply such rents, profits, or receipts towards the payment of the amount of the decree and costs; or when the property attached shall consist of land, if the judgment debtor can satisfy the Court that there is reasonable ground to believe that the amount of the judgment may be raised by the mortgage of the land, or by letting it on lease, or by disposing by private sale of a portion of the land, or of any other property belonging to the judgment debtor, it shall be competent to the Court, on the application of the judgment debtor, to postpone the sale for such period as it may think proper, to enable the judgment debtor to raise the amount. In any case in which a Manager shall be appointed under this Section, such Manager shall be bound to render due and proper accounts of his receipts and disbursments from time to time as the Court may direct,

Where the property attached consists of debts or immoveable property, a Manager may be appointed. Court may postpone sale of land, if satisfied that amount of judgment may be raised by mortgage, etc.

CCXLIV. When in any District, where land paying revenue to Government is ordinarily sold by the Collector, as provided in Section 248, the property attached shall consist of any such land, or of a share in any such land, if the Collector shall represent to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector, on security for the amount of the decree or for the value of such land or share being given, to make provision for such satisfaction in the manner recommended by the Collector, instead of proceeding to a public sale of the land or share.

When Court may authorize Collectors to stay public sale of land.

CCXLV. If the amount decreed, with costs and all charges and expenses which may be incurred by the attachment, be paid into Court, or if satisfaction of the decree be otherwise made, an order shall be issued for the withdrawal of the attachment; and if the defendant shall desire it and shall deposit in Court a

Order for withdrawal of attachment after satisfaction of decree.

sum sufficient to cover the expense, the order shall be proclaimed or intimated in the same manner as hereinbefore prescribed for the proclamation or intimation of the attachment; and such steps shall be taken as may be necessary for staying further proceeding in execution of the decree.

Of claims to Attached Property.

How claims and objections to sale of attached property are to be investigated.

CCXLVI. In the event of any claim being preferred to or objection offered against, the sale of lands or any other immoveable or moveable property, which may have been attached in execution of a decree or under any order for attachment passed before judgment, as not liable to be sold in execution of a decree against the defendant, the Court shall, subject to the proviso contained in the next suceeding Section, proceed to investigate the same, with the like powers as if the claimant had been originally made a defendant to the suit, and also with such powers as regards the summoning of the original defendant as are contained in Section 220. And if it shall appear to the satisfaction of the Court, that the land or other immoveable or moveable property was not in the possession of the party against whom execution is sought, or of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, or that, being in the possession of the party himself at such time, it was so in his possession not on his own account or as his own property, but on account of or in trust for some other person, the Court shall pass an order for releasing the said property from attachment. But if it shall appear to the satisfaction of the Court that the land or other immoveable or moveable property was in possession of the party against whom execution is sought, as his own property, and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, the Court shall disallow the claim. The order which may be passed by the Court under this Section shall not be subject to appeal, but the party against whom the order may be given shall be at liberty to bring a suit to establish his right, at any time within one year from the date of the order.

Claims and objections to be preferred at the earliest opportunity.

CCXLVII. The claim or objection shall be made at the earliest opportunity to the Court which shall have ordered the attachment; and if the property to which the claim or objection applies shall have been advertized for sale, the sale may (if it appears necessary) be postponed for the purpose of making the investigation mentioned in the last preceding Section. Provided, that no such investigation shall be made, if it appear that the making of the claim or objection was designedly and unnecessarily delayed, with a view to obstruct the ends of justice. The order disallowing the investigation shall not be subject to appeal, and the claimant shall be left to prosecute his claim by a regular suit.

Of Sales in execution of Decrees.

Sales to be by public auction. Except as to negotiable securities and shares in public Companies. Sale by Collector of lands paying revenue to Government.

CCXLVIII. Sales in execution of decrees shall be conducted by an officer of the Court or by any other person whom the Court may appoint, and shall in all cases be made by public auction in manner hereinafter mentioned. Provided that, if the property to be sold shall consist of negotiable securities or of shares in any Railway, Banking, or other public Company or Corporation, it shall be competent to the Court, instead of directing the sale to be made by public auction, to authorize the sale of such securities or shares through a broker at the market-rate of the day. If the property to be sold shall be land paying revenue to Government and the Government shall so direct, the sale shall be conducted by the Collector on the requisition of the Court.

Notification of sales by public auction. Time of sale.

CCXLIX. In all cases of intended sale by public auction, whether of moveable or immoveable property, in execution of a decree, a proclaimtion of the intended sale, specifying the time and place of sale, the property to be sold, the revenue assessed upon the estate when the property to be sold is an estate or a part of an estate paying revenue to Government, and the amount for the recovery of which the sale is ordered, together with any other particulars that the Court may think necessary, shall be made in the current language of the District. The proclamation shall also declare that the sale extends only to the right, title, and interest of the defendant in the property specified therein. Such proclamation shall be made on the spot where the property is attached by beat of drum, or in such other mode as may be customary; and a written notification to the same effect shall be affixed in the Court-house of the Judge who shall have ordered the sale, and in some conspicuous spot in the town or village in which the attachment may have taken place. When the property ordered to be sold may consist of land, or of any right or interest in land, the written notification shall also be affixed in the office of the Collector of the District in which such land is situ-

ate, and in the Court-house of the principal Civil Court of the District where the Court which ordered the sale is subordinate to such Court. The sale shall not take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the notification shall have been affixed in the Court-house of the Judge ordering the sale.

The process for attachment and sale may in certain cases be issued simultaneously.

CCL. The usual process for attachment and sale, when the property to be attached consists of goods, chattels, or other personal estate other than debts, may be issued either successively or simultaneously, as the Court directing the sale may in each instance think proper.

Mode of payment on sale of moveable property.

CCLI. In all cases of sale of moveable property, the price of every lot shall be paid for at the time of sale, or as soon after as the officer holding the sale shall direct, and in default of such payment the property shall forthwith be again put up and sold. On payment of the purchase money, the Officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

Irregularity not to vitiate sale of moveable property.

CCLII. No irregularity in the sale of moveable property under an execution shall vitiate the sale; but any person who may sustain any injury by reason of such irregularity may recover damages by a suit in Court.

Deposit by purchaser in case of sale of immoveable property.

CCLIII. In all cases of sale of immoveable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

At what time full amount of purchase money to be made good. Defaulting purchaser answerable for for loss by resale.

CCLIV. The full amount of purchase money shall be made good by the purchaser before sunset of the fifteenth day from that on which the sale of the property took place, or if the fifteenth day be a Sunday or other close holiday, then on the first office day after the fifteenth day; and in default of payment within such period, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be resold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the sale which is eventually consummated be less than the price bid by such defualting purchaser, the difference shall be leviable from him under the rules for enforcing the payment of money in satisfaction of a decree of Court.

Notification on re-sale of immoveable property.

CCLV. Every re-sale of immoveable property in default of payment of the purchase money shall be made after the issue of a fresh notification in the manner and for the period prescribed for original sales.

Confirmation of sale.

CCLVI. No sale of immoveable property shall become absolute until the sale has been confirmed by the Court. At any time within thirty days from the date of the sale, application may be made to the Court to set aside the sale on the ground of any material irregularity in publishing or conducting the sale, but no sale shall be set aside on the ground of such irregularity, unless the applicant shall prove to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

The sale, if not objected to for irregularity, or if the objection is disallowed, shall become absolute.

CCLVII. If no such application as is mentioned in the last preceding Section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale; and in like manner if such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale for irregularity. If the objection be allowed, the order made to set aside the sale shall be final; if the objection be disallowed, the order confirming the sale shall be open to appeal; and such order, unless appealed from, and if appealed from, then the order passed on the appeal, shall be final; and the party against whom the same has been given shall be precluded from bringing a suit for establishing his claim.

CCVIII. Whenever a sale of immoveable property is set aside, the purchaser shall be entitled to receive back his purchase money with or without interest in such manner as it may appear proper to the Court to direct in each instance.

Certificates to be granted to the purchaser of land.

CCLIX. After a sale of immoveable property shall have become absolute in manner aforesaid, the Court shall grant a certificate to the person who may have been declared the purchaser at such sale, to the effect that he has purchased the right, title, and interest of the defendant in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title, and interest.

Certificate to state the name of actual purchaser.

CCLX. The certificate shall state the name of the person who at the time of sale is declared to be the actual purchaser, and any suit brought against the certificate purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Delivery of moveable property in possession of defendant.

CCLXI. Where the property sold shall consist of goods, chattels, or other moveable property in the possession of the defendant, or to the immediate possession of which the defendant is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of moveable property to which defendant is entitled subject to lien.

CCLXII. Where the property sold shall consist of goods, chattels, or other moveable property to which the defendant is entitled subject to a lien or right of any person to the immediate possession thereof, the delivery to the purchaser shall as far as practicable be made by giving notice to the person in possession, prohibiting him from delivering possession of the property to any person except the purchaser thereof.

Delivery of immoveable property in the occupancy of defendant etc.

CCLXIII. If the property sold shall consist of a house, land, or other immoveable property, in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the attachment of such property, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been sold, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and, if need be by removing any person who may refuse to vacate the same.

Delivery of immoveable property in the occupancy of ryots, etc.

CCLXIV. If the property sold shall consist of land or other immoveable property in the occupancy of ryots or other person entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, that the right, title, and interest of the defendant has been transferred to the purchaser.

Delivery of debts not being negotiable instruments, and of shares in public Companies.

CCLXV. Where the property sold shall consist of debts not being negotiable instruments, or of shares in any Railway, Banking or other public Company or Corporation, the delivery thereof shall be by a written order of the Court prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person or persons except the purchaser, or prohibiting the person in whose name the shares may be standing, from making any transfer of the shares to any person except the purchaser, or receiving payment of any dividends thereon, and the Manager, Secretary, or other proper Officer of the Company or Corporation from permitting any such transfer or making any such payment to any person except the purchaser.

Delivery of negotiable securities actually seized.

CCLXVI. Where the property sold shall consist of negotiable securities of which actual seizure has been made, the same shall be delivered to the purchaser thereof.

Transfer of securities and shares.

CCLXVII. If the endorsement or conveyance of the party, in whose name any negotiable security of any share in a public Company or Corporation is standing, shall be required to transfer the same, the Judge may endorse the security or the certificate of the share, or may execute such other document as may be necessary for transferring the same. The endorsement or execution shall be in the following form, or to the like effect —" A. B. by C D. Judge of the Court of (*or as the case may be*), in a suit by E. F. *versus* A. B." Until the transfer of such security or share, the Judge may, by order, appoint some person to receive any interest or dividend due thereon, and to sign receipts for the same; and any endorsement made, or document executed or receipts signed as aforesaid, shall be as valid and effectual for all purposes, as if the same had been made or executed or signed by the party himself.

Resisting or obstructing purchasers in obtaining possession.

CCLXVIII. If the purchaser of any immoveable property sold in execution of a decree shall be resisted or obstructed in obtaining possession of the property the provisions contained in Sections 226, 227, and 228, relating to resistance or obstruction to a party in whose favor a suit has been decreed in obtaining possession of the property adjudged to him, shall be applicable in the case of such resistance or obstruction.

Obstruction by claimants other than defendants.

CCLIX. If it shall appear that the resistance or obstruction to the delivery of possession was occasioned by any person, other than the defendant, claiming a right to the possession of the property sold as proprietor, mortgagee, lessee, or under any other title, or if in the delivery of possession to the purchaser any such person claiming as aforesaid shall be dispossessed, the Court, on the complaint of the purchaser, or of such person claiming as aforesaid, if made within one month from the date of such resistance or obstruction or of such dispossession as the case may be, shall enquire into the matter of the complaint and pass such order as may be proper in the circumstances of the case. The order shall not be subject to appeal, but the party against whom it is given shall be liberty to bring a suit to establish his right at any time within one year from the date thereof.

CCLXX. Whenever property is sold in execution of a decree, the person on whose application such property was attached shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same by another party in execution of a prior decree.

Attaching creditor to be first paid out of proceeds of sale.

CCLXXI. If, after the claim of the person on whose application the property was attached has been satisfied in full from the proceeds of the sale, any surplus remain, such surplus shall be distributed rateably amongst any other persons, who, prior to the order for such distribution, may have taken out execution of decrees against the same defendant and not obtained satisfaction thereof. Provided that, when any property is sold subject to a mortgage, the mortgagee shall not be entitled to share in any surplus arising from such sale.

Surplus to be rateably distributed among decree-holders who have taken out execution prior to the order for distribution.

CCLXXII. If it shall appear to the Court, upon the application of a decree-holder, that any other decree under which property has been attached was obtained by fraud or other improper means, the Court may order that the applicant shall be satisfied out of the proceeds of the property attached so far as the same may suffice for the purpose, if such other decree be a decree of that Court; or, if it be a decree of another Court, may stay the proceedings to enable the applicant to obtain a similar order from the Court by which the decree was made.

Another decree-holder to be satisfied out of proceeds of property attached under a decree obtained fraudulently.

OF ARREST IN EXECUTION OF DECREES FOR MONEY.

CCLXXIII. Any person arrested under a warrant in execution of a decree for money may, on being brought before the Court, apply for his discharge on the ground that he has no present means of paying the debt, either wholly or in part, or, if possessed of any property, that he is willing to place whatever property he possesses at the disposal of the Court. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and the necessary implements of his trade) and of the places respectively where such property is to be found, or shall state that, with the exceptions above-mentioned, the applicant is not possessed of any property, and the application shall be subscribed and verified by the applicant in the manner hereinbefore prescribed for subscribing and verifying plaints.*

On what grounds, application for discharge may be made. Form of application Verification.

CCLXXIV. Repealed by Act XXIII, 1861, Section 1.

CCLXXV. The discharge of the defendant under the last preceding Section shall not protect him from being arrested again and imprisoned, if it should be shown that, in the application made by him, he had been guilty of any concealment or of wilfully making any false statement respecting the property belonging to him, whether in possession or in expectancy or held for him in trust, or had fraudulently concealed, transferred, or removed any property, or had committed any other act of bad faith; nor shall such discharge exempt from attachment and sale any property then in the possession of the defendant, or of which he may afterwards become possessed.

Defendant liable to be again arrested, if proved guilty of fraudulent concealment of property, &c.

OF THE EXECUTION OF DECREES BY IMPRISONMENT.

CCLXXVI. When a defendant is committed to prison in execution of a decree, the Court shall fix whatever monthly allowance it shall think sufficient for his subsistence, not exceeding four annas per day, which shall be supplied by the party at whose instance the decree may have been executed, to the proper Officer of the Court or of the gaol where the defendant may be in custody, by monthly payments in advance, before the first day of each month; the first payment to be made for such portion of the current month as may remain unexpired before the defendant is committed to prison.

Subsistence-money of a defendant in gaol, how fixed and furnished.

CCLXXVII. The Court may, in case of illness or for other special cause, fix the monthly allowance at such sum not exceeding six annas per day as shall appear necessary. The order fixing such allowance may from time to time be revised and altered on due cause being shown.

Court may vary the allowance in case of illness, or for other special cause.

CCLXXVIII. A defendant shall be released at any time on the decree being fully satisfied, or at the request of the person at whose instance he may have been imprisoned, or on such person omitting to pay the allowance as above directed. No person shall be imprisoned on account of a decree for a longer period than two years, or for a longer period than six months if the decree be for the payment of money not exceeding five hundred Rupees, or for a longer period than three months if the decree be for the payment of money not exceeding fifty Rupees.

Release of defendant. Imprisonment not to be longer than 2 years. Six months, if decree for money not exceeding Rs. 500 Three months, if not exceeding Rs. 50.

CCLXXIX. Sums disbursed by a plaintiff for the subsistence of a defendant in gaol shall be added to the costs of the decree, and shall be recoverable by the attachment and sale of the property of the defendant under the foregoing rules;

Subsistence money to be added to amount of decree.

* *See* Act XXIII of 1861 Sect. 8.

but the defendant shall not be detained in custody or arrested on account of any sums so disbursed.

Application by prisoner for discharge on surrender of all property Verification.

CCLXXX. Any person in confinement under a decree may apply to the Court for his discharge. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy ior in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him, (except the necessary wearing apparel of himself and his family and the necessary implements of his trade,) and of the places respectively where such property is to be found; and such application shall be subscribed and verified by the applicant in the manner hereinbefore provided for subscribing and verifying plaints.

Procedure on such application. Defendant to be discharged on plaintiff failing to prove fraud concealment. Otherwise debtor's imprisonment may be extended to two years: and he may be further dealt with criminally.

CCLXXXI. On such application being made, the Court shall cause the plaintiff to be furnished with a copy of the account of the defendant's property, and shall fix a reasonable period within which the plaintiff may cause the whole or any part of such property to be attached and sold or may make proof that the defendant, for the purpose of procuring his discharge without satisfying the decree, has wilfully concealed property or his right or interest therein, or fraudulently transferred or removed property, or committed any other act of bad faith. If within such period the plaintiff shall fail to make such proof, the Court shall cause the defendant to be set at liberty. If the plaintiff shall, within the time specified, or at any subsequent period, prove to the satisfaction of the Court that the defendant has been guilty of any of the acts above-mentioned, the Court shall, at the instance of the plaintiff, either retain the defendant in confinement, or commit him to prison, as the case may be, unless he shall have already been in confinement two years on account of the decree; and may also, if it shall think proper, send the defendant to the Magistrate to be dealt with according to law.

Defendant's property to continue liable even after his discharge. When Court may declare a defendant absolved from further liability.

CCLXXXII. A defendant once discharged shall not again be imprisoned on account of the same decree, except under the operation of last preceding Section, but his property shall continue liable, under the ordinary rules, to attachment and sale until the decree shall be fully satisfied unless the decree shall be for a sum less than one hundred Rupees and on account of a transaction bearing date subsequently to the passing of this Act. When the decree shall be for of a sum less than one hundred Rupees and on acount of a transaction bearing date as above, the Court may de-clare a defendant who shall be discharged as aforesaid absolved from further liability under that decree.

CCLXXXIII. Repealed by Act XXIII. 1861, Sec. 1.

OF EXECUTION OF A DECREE OUT OF THE JURISDICTION OF THE COURT BY WHICH IT WAS PASSED.

How a decree of one Court may be executed within the jurisdiction of another.

CCLXXXIV. A dscree of any Civil Court within any part of the British territories in India, or established by the authority of the Governor General of India in Council in the territories of any Foreign Prince or State, which cannot be executed within the jurisdiction of the Court whose duty it is to execute the same may be executed within the jurisdiction of any other such Court in the manner following.

Application for such execution.

CCLXXXV. The plaintiff in such case may apply to the Court whose duty it is to execute the decree, to transmit a copy thereof, together with a certificate that satisfaction of such decree has not been obtained by execution within the jurisdiction of the said Court, and a copy of any order for execution of such decree that may have been passed to the Court by which the applicant may wish the decree to be executed.

Copy of decree and other for execution to be transmitted.

CCLXXXVI. The Court, unless there be any sufficient reason to the contrary, shall cause such copies and certificate to be prepared: and the same, after being signed by the Judge and sealed with the seal of the Court, shall be transmitted to the Court indicated by the applicant, if that Court be within the same District, otherwise to the principal Civil Court of original jurisdiction in the District in which the applicant may wish the decree to be executed; and the Court to which such copies and certificates are transmitted shall cause the same to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the seal or jurisdiction of any Court or of the signature of any Judge, unless it shall, under any peculiar circumstances to be specified in an order, require such proof.

Decree or order transmitted, to be executed as that of the Court.

CCLXXXVII. The copy of any decree, or of any order for execution, when filed in the Court to which it shall have been transmitted for the purpose of being executed as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court, and may, if the Court be the principal Civil Court of original jurisdiction in the District, be executed by such Court, or any Court subordinate thereto, to which it may entrust the execution of the same.

CCLXXXVIII. When application shall be made to any Court to execute the decree of any other Court as aforesaid, the Court to which the application shall be made or referred shall proceed to execute the same according to its own rules in the like cases; Provided, that such Court shall have no power to inquire into the validity of the decree, unless it appear upon the face of the decree that the Court by which it was made had no jurisdiction to make the same.

Execution how to be enforced by Court applied to.

CCLXXXIX. The Court to which such application is made or referred for execution as aforesaid, shall take cognizance of and punish all wrongful acts or irregularities done or committed in executing such decree; and all persons disobeying or obstructing the execution of such decree shall be punishable by by such Court in the same manner as if the decree had been made by such Court.

Irregularities in executing decree to be punished by Court applied to.

CCXC. The Court to which such application is made may, upon good and sufficient cause being shown, stay the execution of the decree for a reasonable time, to enable the defendant to apply to the Court by which the decree was passed or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by such Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the defendant shall have been seized under an execution, the Court which issued the execution may order the restitution of the property or the discharge of the person of the defendant pending the result of such application.

Court applied to may in certain cases stay execution, &c.

CCXCI. Before making an order to stay execution or for the restitution of property or the discharge of the defendant under the last preceding Section, the Court may require such security from, or impose such conditions upon, the defendant, as it may deem reasonable.

Before staying execution, Court may require security or impose conditions.

CCXCII. Any order of the Court in which the decree was passed, or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last mentioned Court.

Order of Court passing decree or of Appellate Court, to be binding upon Court applied to.

CCXCIII. No discharge of a defendant under the provisions of Section 290 shall prevent him from being retaken in execution of the decree.

Liability of defendant discharged, to be retaken.

CCXCIV. All orders of a Court for executing the decree of another Court shall be subject to the same rules, in respect to appeal, as if the decree had been originally passed by the Court making such order.

Appeals from orders for execution.

CCXCV. If, in execution of a decree, a warrant of arrest or other process is to be enforced within the limits of a Garrison, Cantonment, Military Station, or Military Bazar, the Officer entrusted with the execution of such warrant or other process shall carry the same to the Commanding Officer, or in his absence to the Senior Officer actually present in the Garrison, Canton nent, Station, or Military Bazar; and the Commanding Officer or such Senior Officer, upon such warrant or other process being produced to him, shall back the same with his signature, and, in the case of a warrant of arrest, shall cause the person named in the warrant to be arrested, if within the limits of his command, and delivered according to the exigency of the warrant to the Civil Officer charged with the execution thereof.

Warrant of arrest or other process in execution of decrees, how to be enforced in Military Cantonments, &c.

CCXCVI. The rules contained in this Chapter shall be applicable to the execution of any judicial process for the sale of property or for the payment of money, which may be ordered by a Civil Court in any Civil proceeding.

These Rules to be applicable to all Civil process for sale of property, &c.

CHAPTER V.

OF PAUPER SUITS.

CCXCVII. A suit may be brought *in formâ pauperis* in the Court having jurisdiction over the claim, subject to the following rules.

Suits may be brought in forma pauperis.

CCXCVIII. No pauper suit shall be brought for the recovery of any sum of money on account of damages for loss of caste, slander, abusive language, or assault.

What suits excepted.

CCXCIX. The application to the Court for permission to sue *in formâ pauperis* shall be by petition, which shall be written on a stamp paper of the value of eight annas.

Application to be by petition on stamp paper.

CCC. The petition shall contain the particulars required by Section 26 of this Act in regard to plaints, and shall have annexed to it a Schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, and shall be subscribed and verified in the manner hereinbefore prescribed for the subscription and verification of plaints:

Petition what to contain.

How to be presented. Examination of petitioner, if a female, how to be taken.

CCCI. The petition shall be presented to the Court by the petitioner in person; but if the petitioner satisfy the Court that he is prevented by sickness from attending the Court in person, or if the petitioner be a female, who, according to the custom and manners of the country, ought not to be compelled to appear in public, the petition may be presented by a duly authorized agent who may be able to answer all material questions relating to the application, and who shall be liable to be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Petition to be rejected, if not in form.

CCCII. If the petition be not framed or presented in the manner laid down in the last two preceding Sections, the Court shall reject the petition.

If in form, Court how to proceed. If presented by an agent Court may order petitioner to be examined as an absent witness.

CCCIII. If the petition be in form and duly presented, the Court shall proceed to examine the petitioner, or the agent of the petitioner as the case may be, regarding the merits of the claim and the property of the petitioner. When the petition is presented by an agent, the Court may also, if it think proper, order that the petitioner be examined in the manner hereinbefore prescribed for the examination of absent witnesses.

Court may reject the application.

CCCIV. If it appear to the Court upon such examination, that the defendant or the matter of the suit, is not within the jurisdiction of the Court, or that the claim is barred by the Statute of Limitations, or that the allegations of the petitioner do not constitute a reasonable ground of action, or (if none of the objections above stated exist) that the petitioner has failed to show that he is not possessed of sufficient means to enable him to pay for the stamps required for the institution and prosecution of the suit, or that the petitioner has recently disposed of any property fraudulently or with a view to obtain the benefit of this Chapter, the Court shall refuse to allow the petitioner to sue as a pauper.

Notice to opposite party.

CCCV. If upon such examination the Court shall see no reason to refuse the application on any of the grounds stated in the last preceding Section, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party) for receiving such evidence as the petitioner may adduce in proof of his pauperism, and for hearing any evidence which the opposite party may bring forward in disproof of the pauperism of the petitioner.

After a summary inquiry, the Court to pass a final order.

CCCVI. On the day appointed for the hearing, or as soon after as the business of the Court will permit, the Court shall consider any objections made by the opposite party, and shall examine any witnesses produced by either party and make a memorandum of the substance of their evidence, and shall either allow or refuse to allow the petitioner to sue as a pauper.

Court may direct a local enquiry.

CCCVII. Previously to passing a final order in the case, the Court may, if it deem fit, institute a local enquiry, in the manner laid down in Section 180 of this Act, regarding the property of the petitioner or regarding the amount or value of any property claimed.

Course of proceeding, if application be admitted.

CCCVIII. If the application of the petitioner be granted, it shall be numbered and registered and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as an ordinary suit, except that the plaintiff shall not be liable to any further stamp duty in respect of any petition, appointment of a pleader, or other proceeding connected with the suit or with the execution of any decree passed in it.

On the decision of the suit, costs how to be calculated.

CCCIX. On the decision of the suit, the Court shall calculate the amount of stamps which would have been paid by the plaintiff if he had not been permitted to sue as a pauper, and such amount shall be recoverable by Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable.

Refusal to allow to sue as a pauper, to bar any subsequent application of the like nature.

CCCX. The refusal to allow the petitioner to sue as a pauper shall be a bar to any subsequent application of the like nature in respect of the same of action; but the plaintiff shall be at liberty to institute a suit in the usual manner in respect of such cause of action, unless precluded by the rules for the limitation of suits.

No appeal from orders under this chapter.

CCCXI. The orders passed by the Court under the provisions of this Chapter shall not be subject to appeal.

CHAPTER VI.

REFERENCE TO ARBITRATION.

Reference to arbitration on application of the parties.

CCCXII. If parties to a suit are desirous that the matters in difference between them in the suit, or any of such matters, shall be referred to the final decision of one or more arbitrator or arbitrators, they may apply to the Court at any time before final judgment for an order of reference.

Application how to be made.

CCCXIII. The application shall be made by the parties in person, or by their pleaders specially authorized in that behalf by an instrument in writing

which shall be presented to the Court at the time of making the application, and shall be filed with the proceedings in the suit.

Nomination and appointment of arbitrators.

CCCXIV. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration and the parties are desirous that the nomination shall be made by the Court, the Court shall appoint the arbitrator or arbitrators.

Order of reference.

CCCXV. The Court shall, by an order under its seal, refer to the arbitrator or arbitrators the matters in difference in the suit which he or they may be required to determine, and shall fix such a time as it may think reasonable for the delivery of the award, and the time so fixed shall be specified in the order.

When the reference is to two or more, the order shall provide for difference of opinion.

CCCXVI. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise as may be agreed upon between the parties; or if they cannot agree, as the Court may determine.

Summoning witnesses, punishment of contempts, &c.

CCCXVII. When a reference is made to arbitration by an order of Court, the Court shall issue the same processes to the parties and witnesses whom the arbitrator or arbitrators or umpire may desire to have examined, as the Court is authorized to issue in suits tried before it; and persons not attending in consequence of such process, or making any other default, or refusing to give their testimony, or being guilty of any contempet to the arbitrator or arbitrators or umpire during the investigation of the suit, shall be subject to the like disadvantages, penalties, and punishments by order of the Court on the representation of the arbitrator or arbitrators or umpire, as they would incur for the same offences in suits tried before the Court.

Extension of time for making award.

CCCXVIII. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Court may from time to time enlarge the period for the delivery of the award, if it shall think proper. In any case in which an umpire shall have been appointed it shall be lawful for him to enter on the reference in lieu of the arbitrators, if they shall have allowed their time or their extended time to expire without making an award, or shall have delivered to the Court or to the umpire a notice in writing stating that they cannot agree. Provided, that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the Court, unless on proof that the delay in completing the award arose from corruption or misconduct of the arbitrator or arbitrators or umpire, or unless the award shall have been made after the issue of an order by the Court superseding the arbitration and recalling the suit.

In case of death, incapacity, or refusal to act as Arbitrators or Umpire, Court may appoint others instead.

CCCXIX. If, in any case of reference to arbitration by an order of Court the arbitrator or arbitrators or umpire shall die, or refuse or become incapable to act, it shall be lawful for the Court to appoint a new arbitrator or arbitrators or umpire, in the place of the person or persons so dying, or refusing or becoming incapable to act. Where the arbitrators are empowered by the terms of the order of reference to appoint an umpire and do not appoint an umpire, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if, within seven days after such notice shall have been served, no umpire be appointed, it shall be lawful for the Court, upon the application of the party having served such notice as aforesaid, and upon proof to its satisfaction of such notice having been served, to appoint an umpire. In any case of appointment under this Section, the arbitrator or arbitrators or umpire so appointed shall have the like power to act in the reference, as if their name or names had been inserted in the original order of reference.

Award how to be submitted to Court.

CCCXX. When an award in a suit shall be made either by the arbitrator or arbitrators or by the umpire, it shall be submitted to the Court under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the suit.

Arbitrator may state special case.

CCCXXI. It shall be lawful for the arbitrator or arbitrators or umpire, upon any reference by an order of Court, if he or they shall think fit, and if it is not provided to the contrary, to state his or their award as to the whole or any part thereof in the form of a special case for the opinion of the Court.

Court may, on application, modify or correct an award in certain cases. And make order respecting costs.

CCCXXII. The Court may on the application of either party modify or correct an award, where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is

imperfect in form or contains any obvious error which can be amended without affecting such decision. The Court may also on such application make such order as it thinks just repecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

In what cases Court may remit the award or any of the matters referred to arbitration for reconsideration.

CCCXXIII. In any of the following cases the Court shall have power to remit the award, or any of the matters referred to arbitration, to the re-consideration of the same arbitrator or arbitrators or umpire, upon such terms as it may think proper (that is to say)—

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration.

If the award is so indefinite as to be incapable of execution.

If an objection to the legality of the award is apparent upon the face of the award.

Award not to be set aside, except on ground of corruption. Application to set aside the award.

CCCXXIV. No award shall be liable to be set aside, except on the ground of corruption or misconduct of the arbitrators or umpire. Any application to set aside an award shall be made within ten days after the same has been submitted to the Court.

Judgment to be according to the award.

CCCXXV. If the Court shall not see cause to remit the award or any of the matters referred to arbitration for re-consideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the Court shall have refused such application, the Court shall proceed to pass judgment according to the award, or according to its own opinion on the special case if the award shall have been submitted to it in the form of a special case; and upon the judgment which shall be so given decree shall follow, and shall be carried into execution in the same manner as other decrees of the Court. In every case in which judgment shall be giving according to the award, the judgment shall be final.

Agreement of parties to refer to arbitration may be filed in the Court. Provisions of this Chapter applicable.

CCCXXVI. When any persons shall by an instrument in writing agree that any differences between them or any of them shall be referred to the arbitration of any person or persons named in the agreement, or to be appointed by any Court having jurisdiction in the matter to which it relates, application may be made by the parties thereto or any of them that the agreement be filed in such Court. On such application being made, the Court shall direct such notice to be given to any of the parties to the agreement, other than the applicants, as it may think necessary, requiring such parties to show cause, within a time to be specified, why the agreement should not be filed. The application shall be written on a stamp paper of one-fourth of the value prescribed for plaints in suits, and shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant, if the application have been presented by all the parties; or, if otherwise, between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shewn against the agreement, the agreement shall be filed and an order of reference to arbitration shall be made thereon. The several provisions of this Chapter, so far as they are not inconsistent with the terms of any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court, and to the award of arbitration and to the enforcement of such award.

Filing in Court an award, when the matter was referred to arbitration without intervention of Court. Enforcement of such award.

CCCXXVII. When any matter has been referred to arbitration without the intervention of any Court of Justice, and an award has been made, any person interested in the award may, within six months from the date of the award, make application to the Court having jurisdiction in the matter to which the award relates, that the award be filed in Court. The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring such parties to show cause within a time to be specified, why the award should not be filed. The application shall be written on the stamp paper required for petitions to the Court where a stamp is required for petitions by any law for the time being in force, and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the award, the award shall be filed and may be enforced as an award made under the provisions of this Chapter.

CHAPTER VIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

HOW QUESTIONS MAY BE RAISED FOR THE DECISION OF A CIVIL COURT BY ANY PERSONS INTERESTED.

Questions of fact, or of law or equity,

CCCXXVIII. Parties interested or claiming to be interested in the decision of any question of fact or law may enter into an agreement, which shall be subject-

to the same stamp duty as prescribed for plaints in suits, that, upon the finding of a Court in the affirmative or negative of such question of fact or law, a sum of money fixed by the parties, or to be determined by the Court, shall be paid by one of the parties to the other of them; or that some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or that one or more of the parties shall do or perform some particular legal act, or shall refrain from doing or performing some particular act specified in the agreement. Where the agreement is for the delivery of some property moveable or immoveable, or for the doing or performing or the refraining to do or perform any particular act, the estimated value of the property to be delivered, or to which the act specified may have reference, shall be stated in the agreement.

may be raised by agreement for the decision of any Court having jurisdiction.

CCCXXIX. The agreement may be filed in any Court having jurisdiction in the matter, and, when so filed, shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; and notice shall be given to all the parties to the agreement other than the party or parties by whom it was presented.

Agreement to be filed and numbered as a suit.

CCCXXX. After the agreement shall have been filed, all the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

Parties to be subject to the Court's jurisdiction.

CCCXXXI. The case shall be set down for hearing as an ordinary suit; and if the Court shall be satisfied, after an examination of the parties or their pleaders, or taking such evidence as it may deem proper, that the agreement was duly executed by the parties, and that they have a *bonâ fide* interest in the question of fact or law stated therein, and that the same is fit to be tried or decided, it shall proceed to record and try or hear the same, and deliver its finding or opinion thereon, in the same way as in an ordinary suit; and shall, upon its finding or deciding upon the question of fact or law, give judgment for the sum fixed by the parties, or so ascertained as aforesaid, or otherwise according to the terms of the agreement, and, upon the judgment which shall be so given, decree shall follow and may be executed, in the same way as if the judgment had been pronounced in a contested suit.

Hearing and disposal of the case.

CHAPTER VIII.

OF APPEALS.

CCCXXXII. Repealed by Act XXIII, 1861. Sec. 1.

HOW APPEALS ARE TO BE PREFERRED.

CCCXXXIII. Appeals shall be made in the form of a memorandum which shall be presented in the Appellate Court within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of the Appellate Court for not having presented it within such limited period; that is to say, within thirty days if the appeal be to a District Court, and within ninety days if the appeal be to the Sudder Court. The days shall be reckoned from and exclusive of the day on which judgment was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against.

Appeal to be preferred by a memorandum to be presented to the Appellate Court within specified time.

CCCXXXIV. The memorandum of appeal shall set forth concisely, and under distinct heads, the grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively. The appellant shall not without the leave of the Court urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant.

What the memorandum is to contain.

CCCXXXV. The memorandum of appeal shall be in the following form or to the following effect, and shall be accompanied by a copy of the decree appealed against—

Form of memorandum.

Memorandum of Appeal.

(Name, &c. as in Register.) ... ... Plaintiff.
(Name, &c. as in Register.) ... ... Defendant.

[Name of Appellant] Plaintiff [or Defendant] abovenamed appeals to the Sudder Court at or Zillah Court at as the case may be], against the deeree of in the above suit, dated the day of ; for the following reasons, namely, [*here state the reasons.*]

If memorandum be not in form or duly presented.

CCCXXXVI. If the memorandum be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. If the memorandum be not presented within the prescribed period and no sufficient cause be shown for the delay, the appeal shall be rejected.

One of several plaintiffs or defendants may appeal and obtain a reversal of the whole decree, if it proceed on a ground common to all.

CCCXXXVII. If there be two or more plaintiffs or two or more defendants in a suit, and the decision of the Lower Court proceed on any ground common to all, any one of the plaintiffs or defendants may appeal against the whole decree, and the Appellate Court may reverse or modify the decree in favor of all the plaintiffs or defendants.

OF STAYING AND EXECUTING DECREES UNDER APPEAL.

Execution of decree may be stayed on appeal; but only if sufficient cause be shown. Court before, making such order, shall require security for due performance of decree or order of Appellate Court.

CCCXXXVIII. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against such decree; but the Appellate Court may, for sufficient cause shown, order that execution be stayed. If application for execution be made before the time allowed for appeal has expired, and the Lower Court has not received intimation of an appeal having been preferred, the Lower Court, if sufficient cause been shown, may stay the execution. Before making an order to stay execution, the Court making the order shall require security to be given by the party against whom the decree was passed for the due performance of the decree or order of the Appellate Court.

CCCXXXIX. Repealed by Act XXIII, 1861. Sec. 1.

No such security to be required from Government or from any public Officer.

CCCXL. In suits instituted or defended under the authority and at the expense of Government, no such security as is mentioned in the last two preceding Sections shall in any case be required from Government or from any public officer.

OF PROCEDURE IN APPEALS FROM DECREES.

How the appeal is to be entered. Form of the Register.

CCCXLI. When a memorandum of appeal is presented in the prescribed form and within the time allowed, the Appellate Court, or the proper officer of that Court, shall endorse thereon the date of presentment, and shall register the appeal in a book to be kept for the purpose, and called the Register of Appeals. Such Register shall be in the form contained in the Schedule (C) hereunto annexed.

Appellate Court may require security for costs from appellant. Proviso.

CCCXLII. It shall be in the discretion of the Appellate Court to demand security for costs from the appellant or not, as it shall see fit, before the respondent is called upon to appear and answer. Provided that the Court shall demand such security in all cases in which the appellant is residing out of the British Territories in India, and is not possessed of any land or other immoveable property within those territories independent of the property to which the appeal relates; and in the event of such security not being furnished at the time of presenting the memorandum of appeal, or within such time as the Court shall order, the Court shall reject the appeal.

Appellant to send intimation to lower Court of appeal being registered. Lower to transmit papers to appellate Court. Either party may give notice of exhibits of which he requires copies.

CCCXLIII. When the memorandum of appeal has been registered, the Appellate Court shall send intimation thereof to the Lower Court. If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Lower Court shall, upon the receipt of the intimation, transmit to the Appellate Court with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court. Either party may give notice in writing to the Lower Court, specifying any exhibits of which he requires copies to be made and deposited in the Lower Court, and copies of such exhibits shall be prepared at the expense of the party giving the notice, and shall be deposited in the Lower Court.

Day of hearing the appeal, how to be fixed.

CCCXLIV. A day shall be fixed by the Appellate Court for the hearing of the appeal. The day shall be so fixed, with reference to the place of residence of the respondent and the time necessary for the service of the notice of appeal, as to allow the respondent a sufficient time to enable him to appear in person or by a pleader on such day.

Publication and service of notice of the day fixed. Form of notice.

CCCXLV. Notice of the day which has been fixed for hearing the appeal shall be affixed in the Appellate Court, and a like notice shall be sent by the Appellate Court to the Lower Court, and shall be served on the respondent in the same way as hereinbefore provided for the service of a summons to a defendant to appear and answer, and all rules applicable to such summons and to proceedings with reference to the service thereof shall apply to the service of such notice. The notice to the respondent shall contain an intimation, that, if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, the case will be heard and decided *exparte* in his absence. Provided that, if the respondent has appointed a pleader to appear in his behalf in the Appellate Court, the service of the notice on such pleader shall be sufficient.

CCCXLVI. If, on the day fixed for hearing the appeal or any other day subsequent thereto to which the hearing of the appeal may be adjourned, the appellant shall not appear in person or by a pleader, the appeal shall be dismissed for default. If the appellant shall appear in person or by a pleader, and the respondent shall not appear in person or by a pleader, the appeal shall be heard *ex parte* in his absence.

Consequence of non-appearance.

CCCXLVII. If an appeal be dismissed for default of prosecution, the appellant may, within thirty days from the date of the dismissal, apply to the Appellate Court for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Court that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Court may re-admit the appeal.

Re-admission of appeals dismissed for default of prosecution.

CCCXLVIII. Upon the hearing of the appeal, the respondent may take any objection to the decision of the Lower Court, which he might have taken if he had preferred a separate appeal from such decision.

Respondent may object to decision of Lower Court.

CCCXLIX. The Appellate Court, after hearing the appeal, shall proceed to give its judgment in the manner hereinbefore prescribed for giving judgment in Courts of original jurisdiction.

Appellate Court how to give judgment.

CCCL. The judgment may be for confirming or reversing or modifying the decree of the Lower Court. But no decree shall be reserved or modified, nor shall any case be remanded to the Lower Court on account of any error, defect, or irregularity, either in the decision or in any interlocutory order passed in the suit, not affecting the merits of the case or the jurisdiction of the Court.

No decision to be reversed for irregularity

CCCLI. If the Lower Court shall have disposed of the case upon any preliminary point so as to exclude any evidence of fact which shall appear to the Appellate Court essential to the rights of the parties, and the decree of the Lower Court upon such preliminary point shall be reversed by the decree in appeal, the Appellate Court may, if it think right, remand the case, together with a copy of the decree in appeal, to the Lower Court, with directions to restore the suit to its original number in the Register, and proceed to investigate the merits of the case, and pass a decree therein.

When a case may be remanded by Appellate Court.

CCCLII. It shall not be competent to the Appellate Court to remand a case for a second decision by the Lower Court, except as provided in the last preceding Section.

Power to remand limited as above.

CCCLIII. When the evidence upon the record of the Lower Court is sufficient to enable the Appellate Court to pronounce a satisfactory judgment, the Appellate Court shall finally determine the case, notwithstanding that the judgment of the Lower Court has proceeded wholly upon some other ground.

When the evidence is sufficient the Appellate Court must determine the case.

CCCLIV. If the Lower Court shall have omitted to raise or try any issue, or to determine any question of fact, which shall appear to the Appellate Court essential to the right determination of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question of fact, the Appellate Court may frame an issue or issues for trial by the Lower Court, and may refer the same to the Lower Court for trial. Thereupon the Lower Court shall proceed to try such issue or issues, and shall return to the Appellate Court its finding thereon together with the evidence. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, file a memorandum of any objection to the finding; and after the expiration of the period so fixed, the Appellate Court shall proceed to determine the appeal.

Trial of issues by Lower on reference from Appellate Court.

CCCLV. It shall not be competent to the parties in an appeal to produce additional evidence in the Appellate Court, whether of exhibits or witnesses; but if it appear that the Lower Court refused to admit competent evidence, or if the Appellate Court require any exhibits to be produced or witnesses examined to enable it to pronounce a satisfactory judgment, or for any other substantial cause, the Appellate Court may allow additional exhibits to be received and any necessary witnesses to be examined, whether such witnesses shall have been previously examined in the Court below or not: Provided that, whenever additional evidence is admitted by an Appellate Court, the reasons for the admission shall be recorded on the proceedings of such Court.

Parties not to produce additional evidence in Appellate Court. Court may call for it.

CCCLVI. Whenever additional evidence is permitted to be received, it shall be competent to the Appellate Court to take such evidence before itself, or to require the Lower or any other Court, or to empower any person, to take such evidence and to transmit the evidence so taken to the Appellate Court. It shall also be competent to the Appellate Court to prescribe the manner in which such evidence shall be taken.

How additional evidence is to be taken.

Points to be defined.

CCCLVII. In all cases where additional evidence is permitted to be taken the Appellate Court shall define the point or points to which the evidence is to be confined, and record the same on its proceedings.

CCCLVIII. Repealed by Act XXIII, 1861, Sec. 1.

Judgment of the Appellate Court.

In what language.

CCCLIX. The judgment of the Appellate Court shall be pronounced in open Court. It shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge or by the Judges concurring therein at the time of pronouncing it. The judgment shall be written in the English language; but if the Judge shall not be able to write an intelligible judgment in that language, the judgment shall be written in the vernacular language of the Judge. When the language in which the judgment is written is not the language in ordinary use in proceedings before the Court, the judgment shall be translated into such language, and the translation shall be signed by the Judge or Judges. Any Judge dissenting from the judgment of the Court shall state his opinion in writting, which shall form part of the record.

Dissent to be recorded.

What the decree is to contain.

CCCLX. The decree of the Appellate Court shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and description of the parties appellant and respondent, and the memorandum of appeal, and shall specify clearly the relief granted or other determination of the appeal. It shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the original suit are to be paid. The decree shall be signed by the Judge or Judges who passed it, and shall be sealed with the seal of the Court. If there be a difference of opinion among the Judges of the Court, it, shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree, but the opinion of such Judge shall be recited in the decree. Certified copies of the decree shall be furnished to the parties in the same manner as hereinbefore provided in regard to the decrees of Courts of original jurisdiction.

A certified copy to be transmitted to the Lower Court.

CCCLXI. A copy of the decree or other order disposing of the appeal, certified by the Appellate Court or the proper Officer of such Court, and sealed with the seal of the Court, shall be transmitted to the Court which passed the first decree in the suit appealed from, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall made in the original Register of the suit.

Decree how to be executed.

CCCLXII. Application for execution of the decree of an Appellate Court shall be made to the Court which passed the first decree in the suit, and shall be executed by that Court, in the manner and according to the rules hereinbefore contained for the execution of original decrees.

APPEALS FROM ORDERS.

No appeal from an order passed before decree, but error or defect therein may be objected to on appeal.

CCCLXIII. No appeal shall lie from any order passed in the course of a suit and relating thereto, prior to decree; but if the decree be appealed against, any error, defect, or irregularity in any such order, affecting the merits of the case or the jurisdiction of the Court, may be set forth as a ground of objection in the memorandum of appeal.

No appeal from order relating to the execution of decree except as provided.

CCCLXIV. No appeal shall lie from any order passed after decree and relating to the execution thereof, except as is hereinbefore expressly provided.

Appeal from orders as to fines or imprisonment.

CCCLXV. All orders as to fines or the levying thereof, or as to imprisonment under this Act (except when the imprisonment is in execution of a decree) shall be subject to appeal.

Procedure in appeals from orders.

CCCLXVI. When an appeal from any order is allowed, the period for preferring the appeal and the procedure thereon shall be in all respects the same as in an appeal from a decree.

CHAPTER IX.

OF APPEALS IN FORMA PAUPERIS.

Who may appeal as pauper.

CCCLXVII. Any party to a suit, who may be unable to pay for the stamps required for the prosecution of an appeal from the decision passed therein, may be allowed to appeal as a pauper from the decision, subject to all the rules contained in the last preceding Chapter and in Chapter V in so far as they are applicable.

Application to whom and when to be presented.

CCCLXVIII. The application to be allowed to appeal *in formâ pauperis* shall be written on a stamp paper of the value of one Rupee if the appeal lie to the District Court, and on a stamp paper of the value of two Rupees if the appeal lie to the Sudder Court, and shall be presented in the Appellate Court within the period allowed for the presentation of a memorandum of appeal.

CCCLXIX. The application shall contain the particulars required to be set forth in the memorandum of appeal, and shall be drawn up in the like manner. It shall have annexed to it a Schedule of any moveable or immoveable property belonging to the applicant, with the estimated value thereof, and shall also be accompanied by copies of the judgment and decree from which the appeal is made. From of application

CCCLXX. If the Appellate Court, upon a perusal of the application and of the judgment and decree of the Court below, shall see no reason to think that the decision of that Court is contrary to law or to some usage having the force of law or is otherwise erroneous or unjust, it shall reject the application. If the application be not rejected upon any of the grounds abovementioned, enquiry shall be made into the alleged pauperism of the applicant, and such enquiry may be conducted either by the Appellate Court, or by the Court from whose decision the appeal is made under the orders of the Appellate Court. Provided that, if the applicant was allowed to sue *in formâ pauperis* in the Court below, no further enquiry in respect of his pauperism shall be necessary, unless the Appellate Court shall see special cause to direct such enquiry. Procedure.

CCCLXXI. The order passed by the Appellate Court on an application to be allowed to appeal *in formâ pauperis*, whether for the admission or rejection of the application, shall be final; but, if the application be rejected, the Appellate Court may, if it think proper, allow the applicant a reasonable time for preferring an appeal on a stamp of the value prescribed for appeals from decrees. Effect of order by Appellate Court.

CHAPTER X.

OF SPECIAL APPEALS.

CCCLXXII. Unless otherwise provided by any law for the time being in force, a special appeal shall lie to the Sudder Court from all decisions passed in regular appeal by the Courts subordinate to the Sudder Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground. Special appeals to Sudder Court. Grounds of special appeal.

CCCLXXIII. The application for the admission of a special appeal shall be presented in the Sudder Court within the period prescribed for the presentation of a memorandum of appeal, and shall be accompanied by copies of the judgments and decrees of the Lower Appellate Court and of the Court of first instance. The application shall be written on a stamp paper of the value prescribed for the regular appeals; but if the applicant be unable to pay for the stamps required for the prosecution of the appeal, the Sudder Court may admit him to appeal as a pauper, subject to all the rules contained in Chapter IX in respect to appeals from decrees *in formâ pauperis*, in so far as the same may be applicable. Application to be presented to the Sudder Court.

CCCLXXIV. The application shall set forth concisely the grounds of objection to the decision appealed against, without argument or narrative, and such grounds shall be numbered consecutively. The applicant shall not, without the leave of the Court, be heard in support of any other ground of objection; but the determination of the Court may be upon any ground on which a special appeal would lie. From of application.

CCCLXXV. Repealed by Act XXIII, 1861, *Sec.* 1.

CHAPTER XI.

REVIEW OF JUDGMENT.

CCCLXXVI. Any person considering himself aggrieved by a decree of a Court of original jurisdiction, from which no appeal shall have been preferred to a Superior Court—or by a decree of a District Court in appeal from which no special appeal shall have been admitted by the Sudder Court—or by a decree of the Sudder Court from which either no appeal may have been preferred to Her Majesty in Council, or, an appeal having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council—and who from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him—may apply for a review of judgment by the Court which passed the decree. Review of judgment. On discovery of new evidence &c.

CCCLXXVII. The application shall be made within ninety days from the date of the decree, unless the party preferring the same shall be able to show just Within what time and on what paper the

application should be made.

and reasonable cause, to the satisfaction of the Court, for not having preferred such application within the limited period. If the application be made within the period above-mentioned, it shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required; but if made after the expiration of that period, it shall be written on the stamp paper prescribed for plaints.

The order for granting or refusing review to be final.

CCCLXXVIII. If the Court shall be of opinion that there are not any sufficient grounds for a review, it shall reject the application, but if it shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Court shall grant the review, and its order in either case, whether for rejecting the application or granting the review, shall be final. Provided, that no review of judgment shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree of which a review is solicited.

Application for a review in the Sudder Court must be made to the Judges that passed the decree.

CCCLXXIX. If the Court to which the application for a review of its judgment has been presented be a Court consisting of two or more Judges, whenever the Judge or Judges who may have passed the decree, or if the decree have been passed by two or more Judges, when any of such Judges shall continue attached to the Court at the time when the application for a review is presented, and shall not be precluded by absence or other cause, for a period of six months after the application, from considering the judgment to which the application refers, it shall not be competent to any other Judge or Judges of the same Court to enter upon a consideration of the merits of the application, and record an order or opinion thereon.

Procedure on application being granted.

CCCLXXX. When an application for a review of judgment is granted, a note thereof shall be made in the Register of suits or appeals (as the case may be), and the Court shall give such order in regard to the re-hearing of the suit as it may deem proper in the circumstances of the case.

CHAPTER XII.

MISCELLANEOUS.

CCCLXXXI. Repealed by Act XXIII, 1861, Sec. 1.

Act not to extend, except in certain cases to Supreme and presidency Small Cause Courts.

CCCLXXXII. Except so far as relates to the examination of witnesses under Commission *and to the execution of decrees out of the jurisdiction of the Courts by which they were passed*,* this Act shall not extend to any suit instituted in any Court of Judicature established by Royal Charter or in any Court for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay.

Saving of jurisdiction and procedure of certain Village and Military Courts.

CCCLXXXIII. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure in Civil cases of Village Moonsiffs or Village or District Punchayets under the provisions of the Madras Code; or the jurisdiction or procedure of Military Courts of Request; or the jurisdiction or procedure of a single Officer duly authorized and appointed under the rules in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of small suits in military bazars at Cantonments and Stations occupied by the troops of those Presidencies respectively; or by Punchayets in regard to suits against Military persons, according to the rules in force under the Presidency of Fort St. George.

Saving of certain special or local Laws. To what extent this Act applies to them.

CCCLXXXIV. Nothing in this Act shall be held to affect the jurisdiction exercised by certain Jagheerdars and other authoritie sinvested with powers under the provisions of Regulation XIII. 1830 of the Bombay Code (*for vesting certain Jagheerdars, Surinjameedars, and Enamdars with the power of deciding suits within the boundaries of their respective estates*) and Act XV. of 1840 (*for extending Regulations XV.* 1827 *and XIII.* 1830 *of the Bombay Code to the Agent of Foreign Sovereigns*) or their procedure in the exercise of such jurisdiction; or to affect suits instituted under Regulation XI. 1816 of the Bengal Code (*for receiving, trying, and deciding claims to the right of inheritance or succession in certain Tributary estates in Zillah Cuttack*), or cases of the nature defined in Regulation XXIX. 1827 (*for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khandesh*), Regulation VII. 1830 (*for bringing under the operation of the Regulations the territories comprised in the Southern Mahratta Country*), Regulations I and XVI, 1831 of the Bombay Code (*for extending the jurisdiction of the Agent of Government in the Dekkan and Khandesh and of the Political Agent in the Southern Mahratta Country, over suits in which certain privileged persons are concerned*), Act XIX of 1835 (*relating to the jurisdiction and authority of the Assistant to the Agent for Sirdars in the Dekkan*), and Act XIII of 1842 (*to enable the holders of revenue which has been alienated*

* See Act X 1861, repealing Acts VII of 1841, in toto, and Acts XXXIII 1852, and XXXIV of 1855, except as to cases of Decree by Supreme Courts.

to them by the State to collect that revenue within the Presidency of Bombay), except that such suits and cases and the regular and special appeals to the Civil Courts allowed therein, shall be received, heard, and determined under the rules laid down in this Act, unless where those rules are inconsistent with any specific provisions contained in the regulations and Acts above quoted.

Act not to take effect in places not subject to the general Regulations, until extended thereto.

CCCLXXXV. This Act shall not take effect in any part of the territories not subject to the general Regulations of Bengal, Madras, and Bombay, until the same shall be extended thereto by the Governor General of India in Council or by the Local Government to which such territory is subordinate, and notified in the Gazette.*

Interpretation.

CCCLXXXVI, The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

"District."

The local jurisdiction of a Principal Civil Court of original jurisdiction shall be deemed a "District" for the purposes of this Act; and the words "District Court" shall mean such Court.

"District Court."

"Sudder Court."

In any part of the British territories in India to which this Act may be extended under the provisions of Section 385, the expression "Sudder Court" shall be deemed to include the highest Civil Court of Appeal in such part of the said territories.†

Commencement of operation of Act.

CCCLXXXVII. This Act shall come into operation in the Presidency of Bengal from the 1st day of July 1859, and in the presidencies of Madras and Bombay from the 1st day of January 1860, or from such earlier day as the Local Government in those Presidencies respectively shall fix and shall publicly notify in the Gazette of the Presidency three months at least before the date so fixed. But if, in any suit pending at the time when this Act shall come into operation, it shall appear to the Court that the application of any provision of this Act would deprive any party to the suit of any right in reference to the procedure of the suit, whether of appeal or otherwise which but for the passing of this Act would have belonged to him, the Court shall proceed according to the law in force before this Act takes effect.

Pending suits.

Where Act comes into operation, procedure of Civil Courts of be regulated by it only.

CCCLXXXVIII. From and after the time when this Act shall come into operation in any part of the British territories in India, the procedure of the Civil Courts in such part of the said territories shall he regulaton by this Act and except as otherwise provided by this Act, by no other Law or Regulation.

* See Act IV, 1860, Section 3, and Act XXIII, 1861.
† See Act IX, 1863.

SCHEDULE A.

COURT of the of holden at

REGISTFR OF CIVIL SUITS in the year 18 .

Date of presentation of plaint.	No. of Suit.	Plaintiff.			Defendant.			Claim.			Appearance.			Judgment.			Appeal.		Execution.					Return of Execution.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Particulars.	Amount or value.	When the Cause of Action accrued.	Day for Parties to appear.	Plaintiff.	Defendant.	Date.	For whom.	For what, or Amount.	Date of Appeal.	Judgment in Appeal.	Date of Application.	Date of order.	Against whom.	For what, and Amount if Money.	Amount of Costs.	Amount paid into Court,	Arrested,	Minute of other Return than Payment or Arrest, and Date of every Return.

SCHEDULE B.

No. of Suit.

In the Court of at

Plaintiff.
Defendant.

(Name, description, and address.)

Whereas[*here enter the name, description, and address of the plaintiff*] has instituted a suit in this Court against you [*here state the particulars of the claim as in the Ragister*]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [*if not specially required to appear in person state—"in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"*]to answer the above-named plaintiff. [*if the summons be for the final disposal of the suit, this further direction shall be added here ; " and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"*]: and you are hereby required to take notice, that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence ; and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

SCHEDULE C.

COURT at

REGISTER OF APPEALS from DECREES in the year 18 .

Date of memorandum.	No. of Appeal.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT.		
		Name.	Description.	Place of abode	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondant.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

SCHEDULE D.

SUDDER COUT at

REGISTER OF SPECIAL APPEALS.

Date of Memorandum.	No. of Appeal.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit and of Appeal.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed reserved, or altered.	For what or Amount.

ACT No. IX OF 1859.

(Received the assent of the Governor General on the 30th April 1859.)

1. *Courts of Special Commission to be established. Proviso.*
2. *Court to consist of three Commissioners.*
3. *Notification of establishment of Court in any District.*
4. *Transfer of pending suits.*
5. *Court where to be held.*
6. *Form of plaint.*
7. *Verification of plaint. Punishment for false averment in plaint.*
8. *Presentation of plaint.*
9. *Procedure before hearing of suit.*
10. *Procedure on hearing.*
11. *Examination, &c., of witnesses.*
12. *Decisions.*
13. *No appeal.*
14. *Execution of decrees.*
15. *Records of cases where to be deposited.*
16. *Validity of convictions of offences involving forfeiture of property, not to be questioned by any Court.*
17. *Validity of conviction not to be questioned because the record does not show in what capacity the convicting officer acted.*
18. *Property attached without adjudication of forfeiture. Validity of such attachment not to be questioned, unless offender surrender within one year and be acquitted, &c. Proviso.*
19. *Release of property attached as forfeited.*
20. *Act not to affect the rights of parties not charged with an offence punishable by forfeiture of property. Proviso.*

An Act to provide for the adjudication of claims to property seized as forfeited.

WHEREAS it is expedient to make provision for the adjudication of claims to property seized as forfeited, with a view to the speedy determination of the same; and whereas it is also expedient to remove doubts concerning the powers of officers or other persons to whom Commissions may have been issued for the trial of heinous offences in certain districts, and concerning the validity of convictions and adjudications of forfeiture made by such officers or other persons; It is enacted as follows :—

Court of Special Commission to be established.

I. It shall be lawful for the Executive Governments of the Lower and North Western Provinces of the Presidency of Bengal, to establish within any part of the territories subject to their respective Governments, Courts of Special Commission for the trial and determination of claims to property seized as forfeited, and to assign, from time to time, such local jurisdiction to the Courts so established as may appear proper. Provided, that no additional expense shall be incurred by the establishment of any such Court without the previous sanction of the Governor General of India in Council.

Proviso.

Court to consist of three Commissioners.

II. Every Court established under this Act shall consist of not less than three Commissioners, who shall sit together for the trial and determination of claims; but any one or more of them shall have power to make all such orders as may be necessary for preparing the cases that may be instituted for trial and decision.

Notification of establishment of Court in any District.

III. Whenever any Court shall be established under the provisions of this Act with jurisdiction in any district or districts, notice thereof shall be given by a written proclamation, of which copies shall be affixed in the several Courts and in the offices of the several Collectors and Magistrates of such district or districts; and the powers, heretofore vested in the Courts of such district or districts in respect of all cases cognizable by the Courts established under this Act, shall be suspended until such Courts shall be informed, by an order under the signature of the Secretary to Government, that the local jurisdiction of such Court of Special Commission has ceased, of which notice shall be given by proclamation in the manner aforesaid.

Transfer of pending suits.

IV. Any case pending before any Court sitting as a Court of original jurisdiction at the time of the passing of this Act, in respect of a matter made cognizable by Courts established under its provisions, shall be transferred to the Court of Special Commission within the limits of whose jurisdiction the property in dispute is situate, and such Court shall summon the defendant and proceed to dispose of the case in the same manner as if it had been instituted before it.

Court where to be held.

V. The Courts established under this Act sball be held at such place within the limits of their respective jurisdiction, as shall from time to time be appointed by the local Government.

Form of plaint.

VI. The plaint in suits instituted under this Act shall be written on the stamp paper prescribed for petitions of plaint in regular suits, and shall contain the following particulars, namely—

The name, description, and place of abode of the plaintiff, the relief sought for, the subject of the claim, and the cause of action; and if the suit be brought against a defendant other than the Government or some officer on the part of the Government, the name, description, and place of abode of such defendant.

Verification of plaint. Punishment for false averment in plaint.

VII. The plaint shall be verified in the manner prescribed for the verification of plaints in Section XXVII, Act VIII of 1859, (*for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*); and if the plaint contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabricating false evidence.

Presentation of plaint.

VIII. The plaint may be presented by the plaintiff in person or by his duly constituted representative, either in the principal Civil Court of original jurisdiction in the district in which the property or any part of the property in dispute is situate, or in the Court of Special Commission having jurisdiction over the claim under this Act. If the plaint be not presented in the Court of Special Commission, it shall be forwarded to such Court without delay.

Procedure before hearing of suit.

IX. The Court shall fix a day for the appearance of the parties and for the hearing of the suit, of which due notice shall be given to the parties or their representatives, and on the day so fixed the parties shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements. If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit, and the Court shall issue a subpœna requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the plaintiff on the day fixed for the hearing of the suit or at any subsequent stage.

Procedure on hearing.

X. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the plaintiff, or his representative when his personal attendance is not required, and the witnesses of the parties, and upon such examination and after inspecting the documents of the parties and making any further enquiry that may appear necessary, shall proceed to pass such order in the case in respect both to the claim and to the costs of suit as it may consider just and proper.

Examination, etc., of witnesses.

XI. It shall not be necessary to take down the depositions of the witnesses in writing at length; but the Court, as the examination of each witness proceeds, shall reduce into writing the substance of what such witness deposes, and the deposition so taken shall form part of the record. In all other respects the provisions of the Rugulations and Acts for procuring the attendance of witnesses and for the examination, remuneration, and punishment of witnesses in suits before the Civil Court, shall be of equal force and effect in cases tried under this Act.

Decisions.

XII. The rules contained in Act XII of 1843 (*concerning the time at which and the language in which the decisions of the Judges in the Courts of the East India Company are to be written*) shall be applicable to decisions passed under this Act.

No appeal.

XIII. No appeal shall lie from any decision passed under this Act, nor shall any such decision be open to revision.

Execution of Decrees.

XIV. The decrees of the Courts of Special Commission established under this Act shall be enforced by the Civil Court of the district in which the property in dispute is situate, under the rules applicable to the execution of decrees passed by those Courts.

Records of cases where to be deposited.

XV. The records of cases disposed of by Courts established under this Act shall be disposited amongst the records of the principal Civil Court of original jurisdiction in the district in which the property in dispute is situate.

Convictions of offences involving forfeiture of property not to be questioned by any Court.

XVI. Whenever any person shall have been convicted of an offence for which his property was forfeited to Government, no Court has power, in any suit or proceeding relating to such property, to question the validity of the conviction.

Conviction not to be questioned because the record does not show in what capacity the convicting Officer acted.

XVII. Whenever any person shall have been convicted as above by an Officer having power to try and convict, the validity of any such conviction shall not be questioned upon the ground that the record of the conviction does not show in what capacity such Officer acted, or that it represents him to have acted in a different capacity from that in which he had power to convict.

XVIII. Whenever any property shall have been attached or seized, without either conviction or an adjudication of forfeiture by any Officer of Government as property forfeited or liable to be forfeited to Government, for an offence, for which, upon conviction, the property of the offender would be forfeited, the validity of such attachment or seizure shall not be called in question by any Court or other authority in any suit or proceeding, unless the offender or alleged offender shall, within one year after the seizure of his property, have surrendered himself for trial, and upon trial before a competent Court shall have been or shall be acquitted of the ofience, and shall prove to the satisfaction of the Court that he did not escape or keep out of the way for the purpose of evading justice. Nothing in this Section shall extend to persons entitled to pardon under Her Majesty's proclamation published in the Calcutta Gazette Extraordinary, dated the 1st of November 1858, or to any person, who, having surrendered himself within the period of one year after the seisure of his property, shall be discharged by order of Government without a prosecution.

Attachment of property without adjudication of forfeiture, not to be questioned, unless offender surrender within one year and be acquitted, &c. Proviso.

XIX. No Judge or other person acting as Commissioner under the provisions of Act XIV of 1857 (*to make further provision for the trial and punishment of certain offences relating to the Army, and of offences against the State*) and Act XVI of 1857 (*to make temporary provision for the trial and punishment of heinous offences in certain Districts*) has power to release property attached or seized as forfeited or as liable to be forfeited to Government except under the provisions of Section VIII. Act XXV of 1857 (*to render Officers and Soldiers in the Native Army liable to forfeiture of property for mutiny, and to provide for the adjudication and recovery of forfeitures of property in certain cases*) when the offender or alleged offender shall have surrendered himself for trial, and shall be tried and acquitted by such Judge or Commissioner, and shall prove that he did not escape or keep out of the way for the purpose of evading justice ; and any order passed by any such Judge or Commissioner for the release of any property attached or seized as forfeited or liable to be forfeited to Government, except upon the acquittal before him of the person accused, and upon proof that he did not escape or keep out of the way for the purpose of evading justice, is hereby declared null and void.

Release of property attached as forfeited.

XX. Nothing in this Act shall be held to affect the rights of parties not charged with any offence for which upon conviction the property of the offender is forfeited, in respect of any property attached or seized as forfeited or liable to be forfeited to Government : Provided that no suit brought by any party in respect of such property shall be entertained, unless it be instituted within the period of one year from the date of the attachment or seizure of the property to which the suit relatest.

Act not to affect the rights of parties not charged with an offence punishable by forfeiture of property. Proviso.

ACT No. X. OF 1859.*

(*Received the assent of the Governor General on the 29th April 1859.*)

RECOVERY OF RENTS (BENGAL) ACT.

ARRANGEMENT OF SECTIONS.

1. *Laws repealed and modified.*
2. *Ryot entitled to a pottah.*
3. *Ryots holding land at fixed rates to receive pottahs.*
4. *If rent of land be not charged for 20 years.*
5. *Ryots having right of occupancy, but not holding at fixed rates, to receive pottahs.*
6. *Right of occupancy of ryot cultivating or holding land for 12 years.*
7. *Saving of terms of written contracts.*
8. *Pottahs to which ryots not having rights of occupancy are entitled.*
9. *Person granting pottah entitled to a counterpart engagement.*

* Made inoperative in the districts to which Act VIII. 1869 B. C. is in force, by Act VIII. 1869, which *see*.

10. Exactions in excess of rent or receipt withheld. Form of receipt.
11. Landholder not to compel the attendance of tenant for adjustment of rent or for any other purpose. Payment of rent to be enforced only under this Act.
12. Damages for extorting payment of rent by duress.
13. Enhancement of rent of ryot holding without written engagement, or after expiry, &c., thereof.
14. Mode of contesting enhancement of rent.
15. Dependant talookdar, &c., holding land at fixed rent without change since permanent settlement, not liable to enhancement of rent.
16. Rent not changed for 20 years, to be primâ facie evidence of occupancy at that rent since permanent settlement.
17. Grounds on which ryot having right of occupancy is liable to enhanced rent. That the rate paid by him is below that prevailing in adjacent places. That the value of the land, &c., has increased independently of the ryot. That the quantity of land held by the ryot is greater than he has paid rent for.
18. When ryot may claim abatement of rent.
19. Relinquishment of land by ryot after notice given.
20. What to be deemed an arrear of rent under this Act.
21. Liability of ryot to be ejected for arrear due. Proviso.
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23. Cognizance of suits under this Act.
24. Suits by Zemindars against their agenst for money or accounts.
25. Ejectment of cultivators, farmers, &c., by Zemindars. Proviso.
26. Measurement of lands.
27. Registry of transfers of talooks, &c. Proviso.
28. Applications to dispossess grantees of land exempt from revenue.
29. Suits by or against Surburakars or Tuhseeldars of khas estates.
30. Time for commencement of suits generally.
31. Time for commencement of suits for grant of pottahs, &c.
32. Time for commencement of suits for arrears of rent. Proviso.
33. Time for commencement of suits against agents for money, &c.
34. Mode of instituting suits. Form of plaint or statement of claim.
35. Statement by whom to be presented.
36. Verification of statement. Punishment for false verification.
37. Statement of claim to be written on stamped paper. No stamp duty to be required for filing documents, &c.
38. Documentary evidence to be produced by plaintiff.
39. If plaintiff require production of document from defendant.
40. Form of plaint in suits for arrears of rent.
41. Form of plaint in suits for ejectment of ryot, &c., or for recovery of occupancy or possession of land, &c.
42. Statement may be returned or allowed to be amended.
43. Issue of summons; personal attendance may be required.
44. The day to be specified in the summons how to be fixed. Defendant to be orderd to produce necessary documents, and to bring witnesses willing to attend without process.
45. Summons how to be served.
46. Endorsement by Nazir as to whether summons has been personally served or not.
47. Execution of process in another District.
48. Cost of serving summons or warrant to be deposited in Court.
49. Warrant of arrest in what cases to be issued.
50. Procedure after arrest of defendant.
51. Procedure when defendant is brought before the Collector under warrant. Form of security bond.
52. Procedure of warrant of arrest cannot be served upon the defendant.
53. Compensation for arrest applied for without reasonable cause.
54. Consequence of neither party appearing on the day of trial.
55. If defendant only appear to dispute the demand, Collector shall pass judgment by default; but if defendant admit the claim, Collector shall decree upon such admission. Proviso.
56. If plaintiff only appear, Collector may proceed exparte.
57. If defendant appear on a day to which the case is postponed, Collector may allow him to be heard in answer to the suit.
58. Revival, reversal, and alteration of decrees exparte or by default.
59. On appearance of parties, the parties to be examined by the Collector, and may cross-examine each other.
60. Examination of party, &c.
61. Witnesses to be examined.

62. Documentary evidence to be produced by defendant.
63. After examination, Collector may make his decree, if no further evidence is required.
64. Consequence of inability of agent to answer.
65. If necessary. Collector to record issue, and to fix a day for hearing further evidence.
66. Parties shall produce their witnesses on the day of trial; or Collector, on application of either party, shall issue summons for the attendance of a witness.
67. Rules regarding attendance, examinations, &c., of witnesses.
68. Consequence of parties not appearing on the day fixed for the trial of any issue.
69. Suits instituted or defended by Naibs, Gomashtahs, &c.
70. Personal attendance of plaintiff or defendant not required in certain cases.
71. Employment of authorized agents or mookhtars.
72. Collector may grant time or adjourn hearing.
73. Collector may cause local enquiry to be made.
74. Defendant may pay money into Court in satisfaction of the demand. If plaintiff elect to proceed, and ultimately recover no further sum than that paid into Court, he shall be liable to the subsequent costs.
75. No interest on deposits.
76. If on trial of suit for delivery of pottah, parties do not agree as to the time for which the pottah is granted, Collector to fix the time. Proviso.
77. If in actions for rent a third person appear as claimant, he is to be made a party to the suit. Proviso.
78. Suits for ejectment or cancelment of lease.
79. Judgment how to be pronounced.
80. If person required by the decree refuse to grant pottah, Collector may do so.
81. Refusal of person to execute kubooliyat as required by the decree.
82. Mode of executing decree for ejectment or re-instatement of ryot. Punishment for obstructing execution.
83. Mode of executing decree for cancelment of a lease, or for ejectment or re-instatement of a farmer or tenant.
84. In what case a judgment-debtor may be detained or imprisoned without issue of process of execution.
85. Liability of surety on failure to deliver judgment-debtor into custody.
86. Issue of process of execution.
87. Application for execution against moveable property.
88. How long warrant shall continue in force.
89. Second and successive warrants.
90. After one year, execution not to issue without notice.
91. Execution not to issue against heir or representative of a deceased party without notice.
92. No process of execution to be issued three years after date of judgment.
93. Warrant against the person. Limit of imprisonment. If arrest be for non-delivery of accounts.
94. No person to be imprisoned a second time under same judgment.
95. Diet-money to be deposited at the time of issue of warrant.
96. Payment of diet-money in advance during imprisonment.
97. Diet-money to be costs in suit.
98. List of property to be prepared, and proclamation of sale to be published &c.
99. Custody and sale of moveable property taken in execution.
100. Collector may stay sale of moveable property seized, if a third party claim any interest therein.
101. Collector to adjudicate such claims.
102. Claimant failing to establish his right, liable to pay compensation to judgment-creditor.
103. No appeal from order of Collector under the two last preceding Sections. Proviso.
104. Sale not vitiated by irregularity in publishing or conducting the same. Proviso.
105. Sale of transferable tenures in execution of decrees for arrears of rent.
106. If third party claim to be the lawful possessor of such under tenure, Collector to stay the sale and to enquire into and adjudicate upon the claim. Proviso.
107. Mode of adjudicating such claims.
108. Execution of decrees given in favor of sharers in undivided estates or tenures.

109. In all cases of decrees for money, if judgment cannot be satisfied by sale of debtor's moveable property, execution may be had against his immoveable property.

110. Mode of executing process, if immoveable property be a house or other building. If it be a saleable under tenure. If it be an estate or a share of an estate.

111. Consequence of objection being offered before the sale of any immoveable property.

112. Produce of the land to be held hypothecated for the rent. Arrears of rent may be recovered by distraint under the following rules. Cultivators who have given security to be exempt from distraint. Three Provisoes.

113. No distraint in certain cases.

114. Power of distraint to be exercised by managers under the Court of Wards, &c. Proviso.

115. Standing crops, and crops gathered but not stored, liable to distraint.

116. Defaulter to be served with a written demand &c., before or at the time of distraint.

117. Distress to be proportionate to the arrear, if not paid or tendered. List of property to be distrained, to be served on owner.

118. Standing crops &c., when attached, to be reaped and stored by the cultivator, or, if he neglect to do so, by the distrainer.

119. Distrainer may apply for aid to the Collector upon occasion of resistance made or apprehended.

120. Persons empowered to distrain may give written authority to their servants to do so.

121. Distress to be withdrawn, if defaulter tender payment of arrear and expenses of attachment prior to the day of sale.

122. Application for sale.

123. Form of application. Cost of notice upon defaulter to be deposited by distrainer.

124. Procedure by Civil Court Ameen, &c., on receipt of application.

125. Ameen to suspend sale on receipt of Collector's certificate of the institution of a suit.

126. Suit to contest distrainer's demand before issue of notice of sale.

127. Distress to be withdrawn, on receipt of Collector's certificate that the owner has executed a bond with security to pay amount of decree with interest and costs.

128. On expiration of period fixed in the proclamation of sale, if institution of suit to contest distrainer's demand have not been certified, sale may be proceeded with.

129. Place and manner of sale of distrained property.

130. If fair price be not offered, sale may be postponed to another day, and shall be then completed at whatever price may be offered.

131. Payment of purchase money.

132. Proceeds of sale.

133. Officers holding sales prohibited from purchasing.

134. All irregularities to be reported to the Collector. Officer not to proceed to sale, if he find that defaulter has not received due notice.

135. Recovery of expenses, if Ameen proceeds to place of sale and no sale take place.

136. Proceedings of Civil Court Ameens, &c., subject to revision and orders of Collectors.

137. Second proclamation of sale.

138. Procedure after institution of suit to contest distrainer's demand.

139. Any person, whose property has been distrained for arrears of rent alleged to be due from another, may institute a suit against the distrainer, &c. Proviso.

140. Procedure if distrainer's right to distrain be disputed.

141. Persons, prevented form suing in time to save their property from sale, may sue for damages.

142. Also persons aggrieved by any illegal act of distrainer.

143. Unlawful distraint.

144. Time for commencing suits for damages.

145. Resistence of distraint.

146. Service of process.

147. Resistance of process.

148. Collector competent to hold a Court in any part of his jurisdicton. Proviso.

149. Agents or mooktars.

150. *Powers of Deputy Collectors.*
151. *Collectors and Deputy Collectors to be subject to direction and control of the Commissioners and the Boards of Revenue. No appeal from orders of Collectors and Deputy Collectors in certain cases.*
152. *Time for presenting appeals from orders.*
153. *No appeal from any decree of Collector for money below 100 Rupees, unless the decision involve some question of right to enhance rents, or some question relating to a title to land.*
154. *In suits not open to appeal, Collector may grant a re-hearing upon the discovery of new evidence, &c.*
155. *Appeal from decision of Deputy Collector.*
156. *Petition of appeal to be on stamp paper, &c.*
157. *Procedure in appeal.*
158. *Re-admission of appeal.*
159. *Judgment in appeal.*
160. *In what suits appeal to lie to Zillah Judge, or to Sudder Court.*
161. *Rules regarding presentation and hearing of appeals.*
162. *Suits to be preferred in the Revenue Office of the District or Sub-division in which the greater part of the lands is situate.*
163. *Except as above, Collector not to exercise jurdisiction in respect to lands situate beyond his District.*
164. *Deputy Collector entrusted with Police functions, not to exercise judicial powers under this Act.*
165. *What powers to be exercised by Assistants to Collectors.*
166. *Saving of rights of proprietors in respect of Putnee Talooks, &c., under Regulation VIII. 1819.*
167. *Commencement of Act.*
168. *"Civil Jail." "Nazir." Number. Gender.*

An Act to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal.

WHEAREAS it is expedient to re-enact with certain modifications the provisions of the existing law relative to the rights of ryots with respect to the delivery of pottahs and the occupancy of land, to the prevention of illegal exaction and extortion in connection with demands of rent, and to other questions connected witht he same; to extend the jurisdiction of Collectors, and to prescribe rules for the trial of such questions, as well as of suits for the recovery of arrears of rent, and of suits arising out of the distraint of property for such arrears; and to amend the law relating to distraint; It is enacted as follows :—

Laws repealed and modified.

I. The following Regulations and Acts and portions of Regulations and Acts are hereby repealed, except in so far as they repeal any other Regulation or Act, and except as to proceedings commenced before the date of this Act coming into force, namely,

Regulation XVII. 1793 (*to empower landholders to distrain and sell the personal property of ryots, &c.*),

So much of Regulation IV. 1794 (*to determine disputes regarding the grant of pottahs to ryots, &c.*) as is still in force,

Regulations XXXV. 1795 (*for better enabling individuals to recover arrears of rent or revenue due to them*),

Regulation XLV. 1795 (*to empower landholders in the Province of Benares to distrain, &c.*),

Sections IX. and X. Regulation LI. 1795 (*respecting ryotty pottahs in the Province of Benares*),

Sections I to XX Regulation VII. 1799 (*to enable landholders to realize their rents with greater punctuality, &c.*),

Sections I to XX Regulation V. 1800 (*to enable landholders in the Province of Benares to realize their rents with greater punctuality, &c.*),

Regulation XXVIII. 1803 (*to empower landholders in the Ceded Provinces to distrain, &c.*),

Sections IX and X Regulation XXX. 1803 (*prescribing rules for the grant in the Ceded Provinces of pottahs to ryots, &c.*),

Section IV Regulation II. 1805 (*to provide a limitation of time for certain suits, &c.*),

Section XIX Regulation VIII. 1805 (*for extending certain Regulations to the Ceded and Conquered Provinces, &c.*),

Sections V to XXIII Regulation V. 1812 (*for amending some of the rules at present in force for the collection of the Land Revenue*),

Sections XV and XVI Regulation XIX. 1817 (*for amending certain Regulations in force relative to process for recovery of arrears of rent, &c.*),

Section XXVII Regulation XX. 1817 (*relating to resistance to distraint for arrears of rent, &c.*),

Sections XVIII and XIX Regulation VIII. 1819 (*relating to Putnee Talooks and the system established for the collection of rents generally, &c.*),

Section IV Regulation II. 1821 (*relating to the duties of City and Zillah Judges, &c.*),

Section XXII, and so much of Section XX and the following Sections of Regulation VII. 1822 (*relating to the settlement of the Land Revenue in the Ceded Provinces and Cuttack, &c.*) as apply to suits for rent, to complaints of excessive demand or undue exaction of rent or of the non-delivery of Pottahs or receipts, to suits against agents for money or accounts, or to any other suits or complaints arising out of disputes between landholders or farmers and their under-tenants respecting the rent and occupancy of land.

Regulation XIV. 1824 (*for modifying the rules in force for referring to the Collector's summary suits in cases of arrear or exaction of rent*).

Regulation VIII. 1831 (*for amending the existing provisions relative to the trial of summary suits and claims for arrears or exactions of rent*),

Act I. of 1839 (*relating to the appointment of persons to sell property distrained for the recovery of arrears of rent*),

Act X. of 1846 (*for regulating the proceedings in certain cases of distraint for arrears of rent*)—and

Act VIII. of 1848 (*to modify the provisions of Sections IX, X, XI, and XIII of Regulation* V. 1812 *of the Bengal Code*).

Sections XIV and XV Regulation IX. 1833 (*for the more speedy decision of certain suits, and for enforcing the production of village accounts, &c.*), so far as the same are applicable to the territories under the Government of the Lieutenant-Governor of Bengal, are also repealed.

Such parts of Regulation VIII. 1793 (*prescribing rules for the decennial settlement of the public Revenue in Bengal, Behar, and Orissa, &c.*), and Regulation XXX. 1803, as relate to the adjudication of penalties for the refusal of pottahs and receipts for rent, and for the exaction of any sums as abwab or in excess of the amount specified in any engagements for the payment of rent, and such parts of Section XXVI Act I. of 1845 (*to amend Act No. XII. of* 1841, *entitled "an Act for amending the Bengal Code in regard to sales of land for arrears of Revenue"*), as relate to the enhancement of rents and the ejectment of tenants by the purchaser of an estate sold for arrears of Government Revenue, are declared subject to the following modifications.

Ryot entitled to a pottah.

II. Every ryot is entitled to receive from the person to whom the rent of the land held or cultivated by him is payable, a pottah containing the following particulars :—

The quantity of land; and where fields have been numbered in a Government survey, the number of each field.

The amount of annual rent.

The instalments in which the same is to be paid.

And any special conditions of the lease.

If the rent is payable in kind, the proportion of produce to be delivered, and the time and manner of delivery.

Ryots holding land at fixed rates to receive pottahs.

III. Ryots who, in the Provinces of Bengal, Behar, Orissa, and Benares, hold lands at fixed rates of rent which have not been changed from the time of the permanent settlement, are entitled to receive pottahs at those rates.

Presumption, if rent of land be not charged for 20 years.

IV. Whenever, in any suit under this Act, it shall be proved that the rent at which land is held by a ryot in the said Provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.

Ryots having right of occupancy, but not holding at fixed rates, to receive pottahs.

V. Ryots having rights of occupancy, but not holding at fixed rates as described in the two preceding Sections, are entitled to receive pottahs at fair and equitable rates. In case of dispute, the rate previously paid by the ryot shall be deemed to be fair and equitable, unless the contrary be shown in a suit by either party under the provisions of this Act.

Right of occupancy of ryot cultivating or holding land for 12 years.

VI. Every ryot, who has cultivated or held land for a period of twelve years, has a right of occupancy in the land so cultivated or held by him, whether it be held under pottah or not, so long as he pays the rent payable on account of the same; but this rule does not apply to khomar, neejjote, or seer land, belonging to the proprietor of the estate or tenure and let by him on lease for a term or year by year, nor (as respects the actual cultivator) to lands sublet for a term or year by year by a ryot having a right of occupancy. The holding of the

father, or other person from whom a ryot inherits, shall be deemed to be the holding of the ryot within the meaning of this Section.

Saving of terms of written contracts.

VII. Nothing contained in the last preceding Section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a ryot, when it contains any express stipulation contrary thereto.

Pottahs to which ryots not having rights of occupancy are entitled.

VIII. Ryots not having rights of occupancy are entitled to pottahs, only at such rates as may be agreed on between them and the persons to whom the rent is payable.

Person granting pottah entitled to a counterpart engagement.

IX. Every person who grants a pottah is entitled to receive from the person to whom the pottah is granted a kubooliyet or counterpart engagement in conformity with the terms of the pottah. The tender to any ryot of a pottah, such as the ryot is entitled to receive, shall be held to entitle the person to whom the rent is payable to receive a kubooliyet from such ryot.

Damages for exactions in excess of rent or for receipt withheld. Form of receipt.

X. Every under-tenant or ryot, from whom any sum is exacted in excess of the rent specified in his pottah, or payable under the provisions of this Act, whether as abwab or under any other pretext, and every under-tenant, ryot, or cultivator from whom a receipt is withheld for any sum of money paid by him as rent shall be entitled to recover from the person receiving such rent, damages not exceeding double the amount so exacted or paid. Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

Landholder not to compel the attendance of tenant for adjustment of rent or for any other purpose.

XI. The power heretofore vested in Zemindars and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rent due to them other than are authorized by the provisions of this Act.

Damages for extorting payment of rent by duress.

XII. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or ryot by illegal confinement or other duress, such under-tenant or ryot shall be entitled to recover such damages, not exceeding in any case the sum of two hundred Rupees, as may be deemed a reasonable compensation for the injury done him by such extortion. An award of compensation under this Section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

Enhancement of rent of ryot holding without or after expiry, etc., of written engagement.

XIII. No under-tenant or ryot, who holds or cultivates land without a written engagement, or under a written engagement not specifying the period of such engagement, or whose engagement has expired, or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land held or cultivated by him is situate, and has not been renewed, shall not be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice shall have been served on such under-tenant or ryot, in or before the month of Cheit, specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed. Such notice shall be served by order of the Collector on the application (which may be on plain paper) of the person to whom the rent is payable, and shall, if practicable, be served personally on the under-tenant or ryot. If for any reason the notice cannot be served personally upon the under-tenant or ryot, it shall be affixed at his usual place of residence, or if he have no such place of residence in the District in which the land is situate, the mode of service of such notice shall be by affixing it at the Mal Cutcherry of such land or other conspicuous place thereon, or at the village Chowree or Chowpal, or at some other conspicuous place in the village in which the land is situate.*

Mode of contesting enhancement of rent.

XIV. Any under-tenant or ryot, on whom such notice as aforesaid has been served, may contest his liability to pay the enhanced rent demanded of him, either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

Dependent talookdar, &c., holding at fixed rent since permanent settlement not liable to enhancement.

XV. No dependent talookdar or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the ryots, who, in the Provinces of Bengal, Behar, Orissa, and Benares, holds his talook or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in Section LI Regulation VIII 1793, or in any other law, to the contrary notwithstanding.

Presumption from rent of talookdar, &c., not having been changed for twenty years.

XVI. Whenever, in any suit under this Act, it shall be proved that the rent at which a talook or other tenure is held in the said Provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be

* See Act XIV. of 1863.

presumed that such talook or tenure has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or it be proved that such rent was fixed at some later period.

Grounds on which ryot having right of occupancy is liable to enhanced rent.

XVII. No ryot having a right of occupancy shall be liable to an enhancement of the rent previously paid by him except on some one of the following grounds, namely :—

That the rate of rent paid by such ryot is below the prevailing rate payable by the same class of ryots for land of a similar description and with similar advantages in the places adjacent.

That the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the ryot.

That the quantity of land held by the ryot has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

When ryot may claim abatement of rent.

XVIII. Every ryot having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him if the area of the land has been diminished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the power of the ryot, or if the quantity of land held by the ryot has been proved by measurement to be less than the quantity for which rent has been previously paid by him.*

Relinquishment of land by ryot after notice given.

XIX. Any ryot, who desires to relinquish the land held or cultivated by him, shall be at liberty to do so, provided he gives notice of his intention in writing to the person entitled to the rent of the land, or his authorized agent, in or before the month of Cheit of the year preceding that in which the relinquishment is to have effect. If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land. If the person entitled to the rent of the land or his agent refuse to receive any such notice and to sign a receipt for the same, the ryot may make an application on plain paper to the Collector, who shall thereupon cause the notice to be served on such person or his agent in the manner provided in Section XIII.

What to be deemed an arrear of rent under this Act.

XX. Any instalment of rent which is not paid on or before the day when the same is payable according to the pottah or engagement, or, if there be no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and, unless otherwise provided by written agreement, shall be liable to interest at twelve per centum per annum.

Liability of ryot to be ejected for arrear due.

Proviso.

XXI. When an arrear of rent remains due from any ryot at the end of the Bengal year, or at the end of the month of Jeth of the Fusly or Willayuttee year, as the case may be, such ryot shall be liable to be ejected from the land in respect of which the arrear is due. Provided that no ryot, having a right of occupancy or holding under a pottah the term of which has not expired, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Liability of former to have his lease cancelled for arrear adjudged due.

Proviso.

XXII. When an arrear of rent shall be adjudged to be due from any farmer or other lease-holder not having a permanent or transferable interest in the land, the lease of such lease-holder shall be liable to be cancelled, and the lease-holder to be ejected. Provided that no such lease shall be cancelled nor the lease-holder ejected, otherwise than in execution of a decree or order under the provisions of this Act.*

Cognizance of suits under this Act.

XXIII.—1.—All suits for the delivery of pottahs or kubooliyets, or for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered ;

2. All suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress ;

3. All complaints of excessive demand of rent, and all claims to abatement of rent;

4. All suits for arrears of rent due on account of land either kherajee or lakheraj, or on account of any rights of pasturage, forest-rights, fisheries, or the like ;

5. All suits to eject any ryot or to cancel any lease on account of the non-payment of arrears of rent, or on accont of a breach of the conditions of any contract by with a ryot may be liable to ejectment or a lease may be liable to be cancelled ;

6. All suits to recover the occupancy or possession of any land, farm, or tenure, from which a ryot, farmer, or tenant has been illegally ejected by the person entitled to receive rent for the same ;

7. All suits arising out of the exercise of the power of distraint conferred on Zemindars and others by Sections CXII and CXIV of this Act, or out of any acts

* See Act XIV. 1863.

done under color of the exercise of the said power as hereinafter particularly provided;

Shall be cognizable by the Collectors of land revenue, and shall be instituted and tried under the provisions of this Act; and, except in the way of appeal as provided in this Act, shall not be cognizable in any other Court, or by any other Officer, or in any other manner. *

Suits by Zemindars against their agents for money or accounts.

XXIV. Suits by Zemindars and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession, shall be cognizable by the Collectors, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court except in the way of appeal as provided in this Act. *

Ejectment of cultivators, farmers, &c., by Zemindars.

XXV. If any Zemindar or other person in receipt of the rent of land requires assistance to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or tenancy, or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorized by any Regulation or Act, he shall make application to the Collector, and the Collector shall proceed thereupon to enquire into the case and pass orders in the manner provided for suits under this Act. Provided, that no such application for the ejectment of a farmer on the determination of a lease shall be received, if the lease be of the kind denominated ticca zur-i-peshgee or the like, in which an advance has been made by the lease-holder, and the proprietor's right of re-entry at the end of the term is contingent on the re-payment of such advance either in money or by the usufruct of the land. In all such cases the parties must proceed by suit in the Civil Court.

Proviso.

Measurement of lands.

XXVI.† When rent is payable by an under-tenant or ryot at a certain rate or rates according to the quantity of land held or cultivated by him; or when any written engagement conditioned for the payment of a certain amount of rent on account of land held or cultivated by an under-tenant or ryot has expired, or become cancelled by the sale for arrears of revenue or rent of the estate or tenure in which the land is situate, the person to whom the rent is payable has a right to measure such land for the purpose of ascertaining the quantity of land actually held or cultivated by such under-tenant or ryot: and every proprietor of an estate or tenure has a right of making a general survey or measurement of the lands comprised in such estate or tenure, unless restrained from doing so by express engagement with the occupants of the lands. If any person, intending to measure any land which he has a right to measure, is opposed in making such measurement by the occupant of the land, or if any under-tenant or ryot, having recieved notice of the intended measurement of land held or cultivated by him which is liable to such measurement, refuses to attend and point out such land, such person may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and shall pass an order either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or ryot. If any under-tenant or ryot after the issue of an order enjoining his attendance neglects to attend, it shall not be competent to him to contest the correctness of the measurement made in his absence.

Registry of transfers of talooks, &c.

XXVII. All dependant talookdars, and other persons possessing a permanent transferable interest in land intermediate between the Zemindar and the cultivator, are required to register, in the Sherishtch of the Zemindar or superior tenant to whom the rents of their talooks or tenures are payable, all transfers of such talooks or tenures, or portions of them, by sale, gift, or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance. And every Zemindar or superior tenant is required to admit to registery and otherwise give effect to all such transfers, when made in good faith, and all such successions and divisions. If any Zemindar or superior tenant refuse to admit to registery or otherwise give effect to any such transfer or succession, the transferree or successor may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and if no sufficient grounds are shown for the refusal, shall pass an order enjoining the Zemindar or superior tenant to admit to registery and otherwise give effect to such transfer or succession. Provided, that no Zemindar or superior tenant shall be required to admit to registery or give effect to any division or distribution of

Proviso

* See Act XIV. 1863.

† Repealed, as regards the Lower Provinces, by Act No. VI, 1862, of Lieutenant Governor of Bengal in Council.

the rent payable on account of any such tenure, nor shall any such division or distribution of rent be valid and binding without the consent in writing of the Zemindar or superior tenant.

Applications to dispossess grantees of land exempt from revenue.

XXVIII. So much of Section X Regulation XIX. 1793, Section X Regulation XLI. 1795, Section VI Regulation XXXI. 1803, Section XXI Regulation VIII. 1805, and Section XXIV Regulation XII. 1805, as authorizes and requires proprietors and farmers of states and dependent talooks, in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the dates specified in the said Sections, of their own authority to collect the rents of such land, and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or talook in which it may be situate, is repealed; and any proprietor or farmer, who may desire to assess any such land or to dispossess any such grantee, shall make application to the Collector, and such application shall be dealt with as a suit under the provisions of this Act. Every such suit shall be instituted within the period of twelve years from the time, when the title of the person claiming the right to assess the land or dispossess the grantee, or of some person claiming under him, first accrued. If such period has already elapsed, or will elapse within two years from the date of the passing of this Act, such suit may be brought at any time within two years from such date

Suits by or against Surburakars or Tusheeldars of estates held khas.

XXIX. All suits, which under the provisions of this Act may be brought by or against Zemindars or other persons in the receipt of the rent of land, may be brought by or against Surburakars or Tuhseeldars of the estates held under khas management, whether such estates are the property of Government or of individuals. If the Collector or the Surburakar or Tuhseeldar of any such estates in the provinces of Bengal, Behar, and Orissa proceed against any defaulting ryot or under-tenant of such estate under the powers vested in him by Section XXV Regulation VII. 1799, and not according to the provisions of this Act, such ryot or under-tenant may contest the demand on account of which he is so proceeded against by suit in the Civil Court.

Time for commencement of suits generally.

XXX.* Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

Time for commencement of suits for grant of pottahs, &c.

XXXI. Suits for the delivery of pottahs or kubooliyets and for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered, may be instituted at any time during the tenancy.

Time for the commencement of suits for arrears of rent.

XXXII. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year, or from the last day of the month of Jeth of the Fusly or Willayuttee year in which the arrear claimed shall have become due. For arrears of rent due at the passing of this Act, suit shall be brought within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire. Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent having been enhanced after issue of notice under Section XIII, and the enhancement not having been confirmed by any competent Court, the suit shall be instituted within three months from the end of the Bengal year or of the month of Jeth of the Fusly or Willayuttee year, on account of which such enhanced rent is claimed.

Proviso.

Time for the commencement of suits against agents for money, papers, or accounts.

XXXIII. Suits for the recovery of money in the hands of an agent, or for the delivery of accounts or papers by an agent, may be brought at any time during the agency, or within one year after the determination of the agency of such agent, or in the case of claims now existing within one year after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court whichever may first expire. Provided, that, if the person having the right to sue shall, by means of fraud, have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case (except the case of claims now existing as aforesaid) be brought at any time exceeding three years from the termination of the agency.

Proviso.

Mode of instituting suits. Form of plaint or statement of claim.

XXXIV. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim, which shall contain the name, description, and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance of the claim, and the date of the cause of action.†

Statement by whom to be presented.

XXXV. The statement of claim shall be presented by the plaintiff, or by an authorized agent of the plaintiff, who has personal knowledge of the facts of

* See Act LIII. 1860.

† As regards N. W. P. See Act XIV. 1863.

the case, or by an agent who shall be accompanied by a person who has such knowledge.

XXXVI. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following or to the like effect :

Verification of statement. Punishment for false verification.

I, A. B, do declare that the above statement is true to the best of my knowledge and belief.

If the statement shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

XXXVII. Repealed by Act XXXVI, 1860, Sec. 1.

XXXVIII. If the plaintiff rely in support of his claim on any document in his possession, he shall deliver the same to the Collector at the time of presenting his statement of claim. Unless such document be delivered in, or its non-production be sufficiently excused, or unless the Colletor see fit to extend the time for producing the same, it shall not afterwards be admitted.

Documentary evidence to be produced by plaintiff.

XXXIX. If the plaintiff require the production of any document in the possession or power of the defendant, he may, at the time of presenting his statement of claim, deliver to the Collector a description of the document, in order that the defendant may be required to produce the same.

If plaintiff require production of document from defendant.

XL. If the suit be for the recovery of an arrear of rent, the statement shall specify the name of the village and estate, and of the Pergunnah or other local division in which the land is situate; and if the arrear is alleged to be due from any ryot, the quantity of land, and where fields have been numbered in a Government Survey, the number of each field, the yearly rent of the land, the amount (if any) received on account of the year for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

Form of plaint in suits for arrears of rent.

XLI. If the suit be for the ejectment of a ryot, farmer, or tenant, from any land, farm, or tenure, or for the recovery of the occupancy or possession of any land, farm, or tenure, the statement shall describe (as circumstances may require) the extent, situation, and designation of the same; and, if necessary for the identification of the land, shall set forth the boundaries of such land.

Form of plaint in suits for ejectment of ryot, &c., or for recovery of occupancy or possession of land, &c.

XLII. If the statement of claim do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Collector may return the statement to the plaintiff, or at his discretion allow it to be amended.

Statement may be returned or allowed to be amended.

XLIII. If the statement of claim be in proper form, the Collector except as otherwise hereinafter especially provided, shall direct the issue of a summons to the defendant, and if the plaintiff require the personal attendance of the defendant, and satisfy the Collector that such personal attendance is necessary, or the Collector of his own accord require such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons, otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

Issue of summons ; personal attendance of defendant may be required.

XLIV. The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be, or be supposed to be, at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence. It shall also enjoin him to bring with him his witnesses, if they are willing to attend without issue of process; and shall be in the form (A) contained in the Schedule to this Act or to the like effect.

The day to be specified in the summons how to be fixed. Defendant to be ordered to produce necessary documents, and to bring witnesses willing to attend without process.

XLV. The summons shall be served by delivering a copy of the summons to the defendant personally when practicable; or if the summons cannot be served on the defendant Personally, by affixing a copy of it to some conspicuous part of his usual place of abode, and also affixing a copy of the same in the Collector's Office.

Summons how to be served.

XLVI. If the summons be served personally, the Nazir shall endorse on the summons the fact of such service. If personal service be not effected, the Nazir shall endorse on the summons the reason of not serving it personally, and how it has been served.

Endorsement by Nazir if summons has been personally served or not.

XLVII. If the usual place of abode of the defendant be in another District, the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such District, who shall issue the summons and return the same, after service, with the prescribed endorsement, to the Officer by whom it was transmitted to him.

Execution of process in another District.

Cost of serving summons or warrant to be deposited in Court.

XLVIII. The amount of the cost of serving the summons, or, if a warrant be issued as provided in the next succeeding Section, of serving the warrant, shall in all cases be deposited in Court upon the same day, or the day next following that on which the plaint or statement of claim is presented to the Collector. If the said amount be not so deposited (except in cases in which the Collector may allow the issue of summons free of cost under the discretion reserved to him in Section CXLVI), the case shall not be brought on the file of suits: but in such case the plaintiff may present another plaint at any time within the period allowed by the rules for the limitation of actions.

Warrant of arrest in what cases to be issued.

XLIX. If in any suit against an under-tenant or ryot for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers, or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant. When such application is presented, the Collector shall examine the plaintiff or his agent, on his oath or affirmation or otherwise according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *primâ facie* grounds for believing the claim to be well-founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Collector may issue a warrant for the arrest of the defendant. The Collector shall fix a reasonable time for the return of the warrant, which shall be in the form (B) contained in the Schedule to this Act or to the like effect, and the Officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant (which shall be in the form (C) in the Schedule or to the like effect) containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence. But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent talook or other transferable tenure, which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

Procedure after arrest of defendant.

L. If a defendant be arrested under the warrant of arrest, he shall be brought with all convenient speed before the Collector and the Collector shall commit him to custody, unless he deposit in Court such sum as may be specified in the notice.

Procedure when defendant is brought before the Collector under warrant. Form of security bond.

LI. When a defendant is brought before the Collector under warrant, the Collector shall with all convenient speed proceed to try the case in the manner hereinafter provided; and if the suit cannot be at once adjudicated, the Collector may, if he th nk fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is depending, or until execution of the final decree which may be passed thereon, and may commit the defendant to the Civil jail to be there detained until he shall furnish such security or dsposit such sum as the Collector shall order. The security bond shall be in the form (D) contained in the Schedule to this Act or to the like effect.

Procedure if warrant of arrest cannot be served upon the defendant.

LII. If the defendant cannot be arrested under the warrant, the Collector, on the application of the plaintiff, shall either postpone the case for such period as he may think proper in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation to be affixed in his own Office and at the residence of the defendant, fixing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant. If the defendant shall appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding Section.

Compensation for arrest applied for without reasonable cause.

LIII. If it shall appear to the Collector that the arrest of the defendant was applied for without reasonable cause, the Collector may in his decree award to the defendant such sum, not exceeding one hundred Rupees, as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest or of his detention in jail during the pendency of the suit.

Consequence of neither party appearing on the day of trial.

LIV. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned, prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case shall be struck off, with liberty to the paintiff to bring a fresh suit, unless precluded by the rules for the limitation of actions.

If defendant only appear to dispute the

LV. If on any such day the defendant only appear, the Collector shall pass judgment against the plaintiff by default, unless the defendant admit the cause of

action, in which case the Collector shall proceed to give judgment for the plaintiff upon such admission without costs, provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

demand, Collector shall pass judgment by default; but if defendant admit the claim, Collector shall decree upon such admission. Proviso.

LVI. If on any such day the plaintiff only appear, the Collector, upon proof that the summons or proclamation has been daily served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

If plaintiff only appear, Collector may proceed exparte.

LVII. If the defendant shall appear or any subsequent day to which the hearing of the suit may be postponed under the last preceding Section, the Collector may upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit, as if he had appeared on the day fixed for his attendance.

If defendant appear on a day to which the case is postponed, Collector may allow him to be heard in answer to the suit.

LVIII. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all such cases, if the party against whom judgment has been given shall appear, either in person or by agent, if a plaintiff within fifteen days from the date of the Collector's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shall show good and sufficient cause for his previous non-appearance, and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case. But no decree shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.

Revival, reversal, and alteration of exparte or by default.

LIX. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjorned, for sufficient reason to be recorded by the Collector, the Collector shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other. If either of the parties be not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally. At the time of examination the defendant, if he think fit, may file a written statement of his defence.

On appearance of parties, the parties to be examined by the Collector, and may cross-examine each other.

LX. The examination of the parties or their agents or such other persons as aforesaid shall be upon oath or affirmation, or otherwise according to the law or the time being in force relative to the examination of witnesses. The substance of the examination shall be reduced to writing in the vernacular language of the Collector, and filed with the record.

Examination of parties, &c.

LXI. If either of the parties shall bring forward a witness on such day, the Collector may take the evidence of such witness.

Witnesses to be examined.

LXII. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and unless such document be so delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

Documentary evidence to be produced by defendant.

LXIII. If after the examination required by Section LIX and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Collector shall make his decree accordingly.

After examination, Collector may make his decree.

LXIV. If, on such examination as aforesaid, the agent of either party be unable to answer any material question relating to the case, which the Collector is of opinion that the party whom he represents ought to answer and is likely to be able to answer if interrogated in person, the Collector may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day; and if the party so directed to attend shall fail to appear in person on the day appointed, the Collector may pass judgment as in case of default, or make such other order as he may deem proper in the circumstances of the case.

Consequence of inability of agent to answer.

LXV. If, on such examination as aforesaid, it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Collector shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place

If necessary, Collector to record issue and to fix a day for hearing further evidence.

on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Collector.

Parties shall produce their witnesses on the day of trial; or Collector on application shall summon witnesses.

LXVI. The parties shall bring forward their witnesses on the day of trial, and, if either party require assistance to procure the attendance of a witness on such day either to give evidence or to produce a document, he shall apply to the Collector, in sufficient time before the day fixed for the trial to enable the witness to be summoned to attend on that day; and the Collector shall issue a summons requiring such witness to attend.

Rules regarding attendance, examination, &c., of witnesses.

LXVII. The provisions of the Regulations and Acts, and all other rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witnesses and the production of documents, and for the examination, remuneration and punishment of witnesses, whether parties to the case or not, in cases before the Civil Court of the Presidency of Bengal, shall, except so far as the same may be inconsistent with the provisions of this Act, apply to and be of equal force and effect in suits under this Act.

Consequence of parties not appearing on the day fixed.

LXVIII. If, on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in Section LIV. If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party upon such proof as may be then before the Court.

Suits instituted or defended by Naibs, Gomastahs, &c.,

LXIX. When suits under this Act are instituted or defended by Naibs, Gomastahs or other persons employed in the collection of rent or management of land in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such Naibs, Gomastahs, or other persons; and anything, which by this Act is required or permitted to be done by a party in person, may be done by any such person as aforesaid. Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person, and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such person.

Personal attendance of females of rank not required.

LXX. A plaintiff or defendant shall not be required to attend in person, if of the female sex and of a rank or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

Employment of authorized agents or mookhtars.

LXXI. Any party to a suit may employ an authorized agent or mookhtar to conduct the case on his behalf, but the appointment of such agent or mookhtar shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court; *and no fee for any agent shall be charged as part of the costs of suit in any case under this Act.**

Collector may grant time or adjourn hearing.

LXXII. The Collector may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, and may also from time to time, in order to the production of further proof or for other sufficient reason to be recorded by the Collector, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Collector may cause local enquiry to be made.

LXXIII. The Collector may, at any stage of a case, cause a local enquiry and report respecting the matter in dispute to be made by any Officer subordinate to him, or by any other Officer of Government with the consent of the authority to whom such Officer is subordinate, or may himself proceed to the spot and make such local enquiry in person. The provisions of the law for the time being in force, relative to local enquiries by Ameens or Commissioners under orders of the Civil Courts, shall apply to any local enquiry made by any Officer under this Section, and, so far as they are applicable, to enquiries made by the Collector in person. In the latter case the Collector, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

Defendant may pay money into Court in satisfaction of the demand.

LXXIV. The defendant in any action under this Act may pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sum shall be paid to the plaintiff. If the defendant deposit less than the sum claimed and the plaintiff elect to proceed in the case, and ultimately recover no further sum than shall have been paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

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* Modified by Act XX. 1865, of the Governor-General's Council.

LXXV. No interest shall be allowed to a plaintiff on any sum paid by the defendant into any Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

No interest on deposits.

LXXVI. If, on the trial of a suit for the delivery of a pottah instituted by a ryot having a right of occupancy, the parties do not agree as to the term for which the pottah is to be granted, the Collector shall fix such term as under the circumstances of the case he may think just and proper. Provided, that the term shall not in any case be longer than ten years, and in estates not permanently settled shall not extend beyond the period for which the proprietor of the estate has engaged with Government. Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pottah shall not extend beyond the period of the continuance of such interest. For cultivators not having a right of occupancy, the term of pottah shall be exclusively in the discretion of the person entitled to the rent of the land.

If parties do not agree as to the time for which the pottah is granted, Collector to fix it.

Provisoes.

LXXVII. When, in any suit between a landholder and a ryot or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the ryot or under-tenant is disputed, and such right is claimed by or on behalf of a third person on the ground that such third person, or a person through whom he claims, has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into, and the suit shall be decided according to the result of such enquiry. Provided always, that the decision of the Collector shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in the Civil Court, if instituted within one year from the date of the decision.

If in actions for rent a third person appear as claimant, he is to be made a party to the suit.

Proviso.

LXXVIII. Any person desiring to eject a ryot or to cancel a lease on account of non-payment of arrears of rent, may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of the rent, as evidence of the existance of such arrear, in a suit for such ejectment or cancelment. In all cases of suits for the ejectment of a ryot or the cancelment of a lease, the decree shall specify the amount of the arrear, and if such amount, together with interest and costs of suit, be paid into Court within fifteen days from the date of the decree, execution shall be stayed.

Suits for ejectment or cancelment of lease.

LXXIX. The Collector shall pronounce judgment in open Court. The judgment shall be written in the Vernacular language of the Collector and shall contain the reasons for the same, and shall be dated and signed by the Collector at the time when it is pronounced.

Judgment how to be pronounced.

LXXX. When a decree is given for the delivery of a pottah, if the person required by the decree to grant such pottah refuse or delay to grant the same, the Collector may grant a pottah in conformity with the terms of the decree under his own hand and seal, and such pottah shall be of the same force and effect as if granted by the person aforesaid.

If person required by the decree refuse to grant pottah, Collector may do so.

LXXXI. When a decree is given for the delivery of a kubooliyet, if the person required by the decree to execute such kubooliyet shall refuse to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Collector shall be of the same force and effect as a kubooliyet executed by the said person.

Refusal to execute kubooliyet as required by the decree.

LXXXII. If the decree be for the ejectment of any ryot from land occupied by him, or for the re-instatement of any ryot in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy. If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Magistrate, on the application of the Collector, shall give effect to the same.

Execution of decree for ejectment or re-instatement of ryot.

LXXXIII. If the decree be for the cancelment of any lease, or the ejectment of any farmer or other person (not being an actual cultivator), or for the re-instatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum or in such other manner as may be customary, and affixing the same in some conspicuous place within or adjacent to the farm or tenure.

Execution of decree for cancelment of a lease or for ejectment or re-instatement of a farmer or tenant.

LXXXIV. If the decree be for arrears of rent or for money, papers, or accounts, and the defendant have been committed to jail or appear pursuant to the conditions of any security bond given under Section LI, the Collector may order that he be detained in or committed to the Civil jail unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

In what case a judgment debtor may be imprisoned without issue of process of execution.

Liability of surety on failure to deliver judgment-debtor into custody.

LXXXV. If the judgment-debtor have given security for his appearance and be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety. If the decree be for the delivery of papers or accounts, and the defendant be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

Issue of process of execution.

* LXXXVI. Process of execution may be issued against either the person or the property of a judgment-debtor; but process shall not be issued simultaneously against both person and property. Process of execution against the person or moveable property of a debtor shall be in the form (E) or (F) contained in the Schedule to this Act, or to the like effect.

Execution against moveable property.

LXXXVII. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but, if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs: In either case the property to be seized shall be pointed out to the Officer entrusted with the execution of the process by the creditor or his agent.

How long warrant shall continue in force.

LXXXVIII. Every warrant of execution shall bear date on the day on which it is signed by the Collector, and shall continue in force for such period as the Collector may direct, not being more than sixty days calculated from such date.

Second and successive warrants.

LXXXIX. Second and successive warrants of execution may be issued by order of the Collector, on the application of the judgment-creditor after the expiration of the period fixed for the continuance in force of a previous warrant.

Execution when not to issue on a judgment without notice to the debtor.

XC. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment, or from the date of the last previous application for execution.

Execution not to issue against heir, etc., of debtor, without notice.

XCI. Execution on a judgment shall not issue against the heir or other representative of a deceased party, without notice to such heir or other representative to appear and be heard.

No execution to be issued after three years from date of judgment.

XCII. No process of execution of any description whatsoever shall be issued, on a judgment under this Act, after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred Rupees, in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Civil Courts.

Warrant against the person. Limit of imprisonment. If arrest be for nondelivery of accounts.

XCIII. If a warrant issue for taking in execution the body of any person, the Officer charged with the execution of the warrant shall bring him with all convenient speed before the Collector. If such person shall not then deposit in Court the full amount specified in the warrant, or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Collector that he has no present means of paying the debt, the Collector shall send him to the Civil jail, there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree. Provided, that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed three calendar months when the amount decreed exclusive of costs does not exceed fifty Rupees, or six calendar months when such amount does not exceed five hundred Rupees, or two years in any other case. If the decree against any person arrested under a warrant be for the delivery of papers or accounts, and the papers or accounts shall not be delivered by him when he is brought before the Collector, such person may be committed to the Civil Jail, there to remain for such time not exceeding six calendar months as the Collector shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

Proviso.

No person to be imprisoned a second time under same judgment.

XCIV. Any person once discharged from jail shall not be imprisoned a second time under the same judgment. If the amount due under the decree do not exceed one hundred Rupees, the Collector may declare such discharged person absolved from further liability under that decree. In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or ex-

* Repealed as regards N. W. P. by Act XIV. 1863.

empt any property belonging to such person from attachment in execution of the same.

XCV. Any person applying for a warrant of arrest under Section XLIX, or suing out process of execution against the body of any person, shall deposit in Court, at the time of issue of the warrant, diet-money for one month of thirty days at such rate as the Collector may direct, not exceeding two annas per diem, unless the Collector for any special reason direct that deposit be made at a higher rate, which shall not exceed four annas per diem.

Diet-money to be deposited at the time of issue of warrant.

XCVI. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, on failure of which the party confined shall be discharged.

Payment of diet-money in advance during imprisonment.

XCVII. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

Diet-money to be costs in suit.

XCVIII. In executing a writ of execution against the moveable property of a debtor liable under this Act, the Officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor. A copy of the said proclamation and list shall be transmitted to the Collector, and shall be affixed in his Office.

List of property to be prepared, and proclamation of sale to be published, etc.

XCIX. No sale of any moveable property taken in execution shall be made, until after the end of ten days next following the day on which such property may have been so taken. Until such sale the property shall be deposited in some fit place, or it may remain in custody of some fit person approved by the Officer executing the writ. The provisions of Sections CXXIX to CXXXIII, so far as the same are applicable, shall be applied to sales under this Section.

Custody and sale of moveable property taken in execution.

C. If, before the day fixed for the sale, a third party appear before the Collector and claim a right or interest in any of the moveable property taken in execution, the Collector shall examine such party or his agent on oath or affirmation, or otherwise according to the law for the time being in force relative to the examination of witnesses, and if he see sufficient reason for so doing may stay the sale of such property.

Collector any stay sale of moveable property seized, if a third party claim any interest therein.

CI. The Collector shall adjudicate upon such claim, and make such order between the claimant and the plaintiff and defendant in the original suit as shall seem fit. In trying such claim the Collector shall be guided by the rules contained in this Act so far as they may be applicable.

Collector to adjudicate such claims.

CII. If the claimant shall fail to establish his right to the property taken in execution, the Collector, at the time of disposing of the case, may award to the judgment-creditor against such claimant as part of the costs, such sum as he may consider sufficient to cover any loss of interest or damage which the Judgment-creditor may have sustained by reason of the postponement of the sale of the property.

Claimant failing to establish his right, liable to pay compensation to judgment creditor.

CIII. No appeal shall lie from any order passed by the Collector under the two last preceding Sections. But the party against whom the same may be given shall be at liberty to bring a suit in the Civil Court to establish his right at any time within one year from the date of the order; provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but shall be for damages against the judgment-creditor by whom the property was brought to sale.

No appeal from order of Collector under the two last preceding Sections.
Proviso.

CIV. No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate such sale, but this rule shall not be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Courts; provided such action be brought within one year from the date of sale.

Sale not vitiated by irregularity in publishing or conducting it.

CV. If the decree be for an arrear of rent due in respect of an under-tenure, which by the title-deeds or the custom of the country is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and the tenure may thereupon be brought to sale in execution of the decree, according to the rules for the sale of under-tenures for the recovery of arrears of rent due in respect thereof contained in any law for the time being in force. But no such application shall be received, when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor, so long as such warrant remains in force. If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immoveable, belonging to the debtor, and any such immoveable property may be brought to sale in the manner provided in Section CX of this Act.

Sale of transferable tenures in execution of decrees for arrears of rent.

If third party claim to be the lawful possessor, Collector to stay the sale and adjudicate upon the claim.

CVI. If, before the day fixed for the sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure a third party appear before the Collector, and allege that such third party, and not the person against whom the decree has been obtained, is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Collector shall examine such party in the manner provided in Section C for the examination of third parties, and if he see sufficient reason for so doing, and such party shall deposit in Court the amount of the decree or give sufficient security for the same, the Collector shall stay the sale and proceed to enquire into and adjudicate upon the claim. Provided, that on transfer of an under-tenure, which by the provisions of this Act or any other law for the time being in force is required to be registered in the Sherishteh of the Zemindar or superior tenant, shall be recognized unless it have been so registered, or unless sufficient cause for non-registration be shown to the satisfaction of the Collector.

Proviso.

Mode of adjudicating such claims.

CVII. In trying such claim the Collector shall be guided by the rules contained in this Act, so far as the same may be applicable, and the judgment passed by the Collector on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the judgment.

Execution of decrees given in favor of sharers in undivided estates or tenures.

CVIII. If a decree is given in favor of a sharer in a joint undivided estate, dependent talook, or other similar tenure, for money due to him on account of his share of the rent of an under-tenure, situate in such undivided estate or talook or tenure, application for the sale of such under-tenure shall not be received, unless execution shall have been first taken out against any moveable property which the judgment-debtor may posses within the District in which the suit was instituted, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment. In such case such under-tenure, if of the nature described in Section CV, may be brought to sale in execution of the decree, in the same manner as any other immoveable property may be sold in execution of a decree for money under the provisions of the two next following Sections.

If judgment cannot be satisfied by sale of debtor's moveable property, execution may be had against the immoveable.

CIX. In the execution of any decree for the payment of money under this Act, not being money due as arrears of rent of a saleable under-tenure, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the District in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor.

Mode of executing process, if immoveable property be a house or other building; or a saleable under-tenure; or an estate or share of an estate.

CX. If the immoveable property against which execution is applied for be a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property, and the provisions of Sections XCVIII and XCIX shall be applicable to the execution of such process. If the property be a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force, applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof. If the property be an estate or a share of an estate, it shall be sold under the rules in force for the sale of estates for the recovery of demands recoverable by the same process as arrears of land revenue.

Consequence of objection being offered before the sale of any immoveable property.

CXI. If, before the day fixed for the sale of any immoveable property as aforesaid, objection shall be offered to the sale on the ground of such property not belonging to the judgment-debtor, and consequently not being liable to be sold in execution of a decree against him, the Collector shall examine the party making the objection in the manner prescribed in Section C for the examination of third parties, and, if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into and adjudicate upon the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in Section CVII.

Produce of the land to be held hypothecated for the rent. Arrears of rent may be recovered by distraint under certain rules. Cultivators who have given security to be exempt from distraint. Three Provisoes.

CXII. The produce of the land is held to be hypothecated for the rent payable in respect thereof; and, when an arrear of rent as defined in Section XX of this Act is due from any cultivator of land, the Zemindar, lakherajdar, farmer dependent talookdar, under-farmer, or other person entitled to receive rent immediately from such cultivator, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on, account of which the arrear is due under the following rules. Provided always that, when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given, shall not be liable to distraint. Provided also, that no sharer in a joint estate, dependent talook, or other tenure in which a division of lands has not been made amongst the shares, shall exercise the power of distraint otherwise than through a manager

authorized to Collect the rents of the whole estate, talook, or tenure, on behalf of all the sharers in the same. Provided further, that, in Putteedaree estates situated in districts under the Government of the Lieutenant-Governor of the North-Western Provinces, distraint shall be made only through a Lumberdar.*

No distraint in certain cases.

CXIII. Distraint shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless a written engagement for the payment of such excess has been executed by the cultivator.

Power of distraint to be exercised by managers under the Court of Wards, &c.

CXIV. The power of distraint, vested by Section CXII in Zemindars and other persons entitled to receive rent from cultivators of land, may be exercised by managers under the Court of Wards, Surburakars, and Tuseeldars of estates held under khas management, and other persons lawfully entrusted with the charge of landed property; and also by the Naibs, Gomastahs, and other agents employed by any such persons as aforesaid in the collection of rent, if expressly authorized by power of attorney in that behalf. Provided that, if any illegal act is committed by any such Naib, Gomastah, or other agent under color of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accuring by reason of such act.

Proviso.

Standing crops, and crops gathered but not stored, liable to distraint.

CXV. Standing crops and other ungathered products of the earth, and crops or other products, when reaped or gathered and deposited in any threshing floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act. But no such crops or products, other than the produce of the land in respect of which an arrear of rent is due or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to be distrained under this Act.

Defaulter to be served with a written demand, &c., before or at the time of distraint.

CXVI. Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made. The demand and account shall, if practicable, be served personally on the defaulter, or, if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

Distress to be proportionate to the arrear, if not paid or tendered. List of property to be distrained, to be served on owner.

CXVII. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or, if he be absent, affix it at his usual place of residence.

Standing crops, &c., when attached, to be reaped and stored by the cultivator, or, if he neglect to do so, by the distrainer.

CXVIII. Standing crops and other ungathered products may, notwithstanding the distraint, be reaped and gathered by the cultivator, and may be stored in such granaries or other places as are commonly used by him for the purpose. If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood. In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose. Crops or products, which from their nature do not admit of being stored, may be sold before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days before the time when the crops or products, or any part of the same, would be fit for cutting or gathering.

Distrainer may apply to the Collector in case for resistance.

CXIX. If a distrainer shall be opposed, or shall apprehend resistance, and shall desire to obtain the assistance of a public officer, he may apply to the Collector, and the Collector may, if he thinks necessary, depute an Officer to support the distrainer in making the distraint.

Persons empowered to distrain may give written authority to their servants to do so.

CXX. When any person, empowered to distrain property under Section CXII or Section CXIV, shall employ a servant or other person to make the distress, he shalt give to such servant or person a written authority (which may be on plain paper) for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

Distress to be withdrawn, if defaulter tender payment prior to the day of sale.

CXXI. If at any time after property has been distrained, and prior to the day fixed for its being put up to sale as hereinafter provided, the owner of the property shall tender payment of the arrear demanded of him and the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress.

Application for sale.

CXXII. Within five days from the time of the storing of any distrained crops or products, or, if the crops or products do not from their nature admit of

* See Act XIV. 1863.

being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the Civil Court Ameen, or other officer authorized to sell property in satisfaction of decrees of the Civil Court within the circle in which the distrained property is situate, or to such other public Officer as the local Government shall appoint for the purpose.

Form of application. Cost of notice to be deposited by distrainer.

CXXIII. The application shall be in writing, and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due, and the date of the distress, and the place in which the distrained property is deposited. Together with the application, the distrainer shall deliver to the Civil Court Ameen or other officer the amount necessary for the service of a notice upon the defaulter as hereinafter provided.

Procedure by Civil Court Ameen, &c., on receipt of application.

CXXIV. Immediately on receipt of the application the Civil Court Ameen or other officer shall transmit a copy of it to the Collector; and shall serve a notice (which shall be in the form (G) contained in the Schedule to this Act, or to the like effect) on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector within the period of fifteen days from the receipt of the notice. He shall at the same time send to the Collector for the purpose of being put up in his office, and if in the North-Western Provinces, in the cutcherry of the Tuhseeldar, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited. The proclamation shall contain a description of the property, the demand for which it is to be sold, and the place where the sale is to be held.

Ameen to suspend sale on Collector's certificate of the institution of a suit.

CXXV. If a suit shall be instituted before the Collector in pursuance of the aforesaid notice, the Collector shall transmit to the Civil Court Ameen or other officer, or, if so requested, shall deliver to the owner of the distrained property a certificate of the institution of such suit; and on such certificate being received by or presented to the Ameen or other officer, he shall suspend proceedings in regard to the sale of the distrained property.

Suit to contest distrainer's demand before issue of notice of sale.

CXXVI. A person, whose property has been distrained in the manner hereinbefore provided, may institute a suit to contest the demand of the distrainer immediately after the distraint of his property, and before the issue of notice of sale. When such suit is instituted, the Collector shall proceed in the manner prescribed in the last preceding Section. If thereafter application for the sale of the property is made to the Civil Court Ameen or other officer, he shall transmit a copy of the application to the Collector, and suspend further proceedings pending the decision of the case.

Distress to be withdrawn on Collector's certificate that the owner has executed a bond with security.

CXXVII. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period execute a bond with security binding himself to pay whatever sum may be adjudged to be due from him with interest and costs of suit, and, when such bond is executed, the Collector shall give to the owner of the property a certificate to that effect, or if so requested shall serve the distrainer with notice of the same; and upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Cellector, the property shall be released from distraint.

On expiry of period fixed, institution of suit not having been certified, sale may be proceeded with.

CXXVIII. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the Civil Court Ameen or other officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as shall be allowed by him, be discharged in full, proceed to sell the property or such part of it as may be necessary in the manner following.

Place & manner of sale of distrained property.

CXXIX. The sale shall be held at the place where the distrained property is deposited, or at the nearest gunge, bazar, haut, or other place of public resort, if the Civil Court Ameen or other officer should be of opinion that it is likely to sell there to better advantage. The property shall be sold by public auction in one or more lots as the Officer holding the sale may think advisable; and if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately with-drawn with respect to the remainder.

If fair price be not offered, sale may be postponed to another day, but shall be then completed.

CXXX. If, on the property being put up for sale, a fair price in the estimation of the Officer holding the sale be not offered for it, and the owner of the property or some person authorized to act on his behalf apply to have the sale postponed until the next day, or the next market day if a market be held at the place of sale, the sale shall be postponed until such day, and shall be then completed whatever price may be offered for the property.

CXXXI. The price of every lot shall be paid for in ready money at the time of sale, or as soon after as the Officer holding the sale shall think necessary; and in default of such payment the property shall be put up again and sold. When the purchase money has been paid in full, the Officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Payment of purchase money.

CXXXII. From the proceeds of the sale of distrained property the Officer holding the sale shall make a deduction at the rate of one Anna in the Rupee on account of the costs of the sale, and shall transmit the amount to the Collector in order that it may be credited to Government. He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in Section CXXIV to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow. The remainder shall be applied to the discharge of the arrear for which the distraint was made with interest thereon up to the day of sale, and, if there be any overplus, it shall be delivered to the person whose property shall have been sold.

Proceeds of sale.

CXXXIII. Officers holding sales of property under this Act, and all persons employed by or subordinate to such Officers, are prohibited from purchasing either directly or indirectly any property sold by such Officers.

Officers holding sales prohibited from purchasing.

CXXXIV. Civil Court Ameens and other officers as aforesaid are required to bring to the notice of Collectors any material irregularities committed by distrainers under color of this Act; and if in any case, on proceeding to hold a sale of property, the Civil Court Ameen or other officer shall find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector, and the Collector shall direct the issue of another notice and proclamation of sale under Section CXXIV or pass such other order as he may think proper.

All irregularities to be be reported to the Collector. Officer not to proceed to sale, if defaulter has not received due notice.

CXXXV. When a Civil Court Ameen or other officer has proceeded to any place for the purpose of holding a sale, and no sale takes place either for the reason stated in the last preceding Section, or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to the Civil Court Ameen or other officer, the charge of one Anna in the Rupee on account of expenses shall be leviable and shall be calculated on the estimated value of the distrained property. If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property and may be recovered by the sale of such portion thereof as may be necessary. In every other case it shall be paid by the distrainer, and my be recovered by attachment and sale of the property of the distrainer under the warrant of the Collector. Provided always, that in no case shall a larger amount than ten Rupees be recoverable under this Section.

Recovery of expenses, if Ameen proceeds to place of sale and no sale takes place.

CXXXVI. All proceedings under this Act of the Civil Court Ameen and other officers as aforesaid shall be subject to the revision and orders of the Collectors, and the Collectors, with the sanction of the Boards of Revenue, may require the submission of such periodical reports and statements of business performed by the Civil Court Ameens and other officers as may be thought necessary.

Proceedings of Ameens, &c., subject to orders of Collectors.

CXXXVII. When a suit has been instituted to contest the demand of a distrainer and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Collector shall issue an order to the Civil Court Ameen or other officer authorizing the sale of the property, and, on the application of the distrainer, which shall be made within five days from the receipt of such order by the Civil Court Ameen or other officer, such Ameen or officer shall publish a second proclamation in the manner prescribed in Section CXXIV, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation; and unless the amount adjudged to be due with the costs of distress be paid intermediately, shall proceed to sell the property in the manner hereinbefore provided.

Second proclamation of sale.

CXXXVIII. In all suits instituted to contest the demand of a distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself brought suit for the amount under the foregoing provisions of this Act. If the demand or any part thereof is found to be due, the Collector shall make a decree for the amount in favor of the distrainer, and the amount may be recovered by sale of the property as provided in the last preceding Section if the distress has not been witndrawn, and if any balance remain due after such sale by execution of the decree against the person and any other property of the defaulter, or if the property have been released on security by execution of the decree against the person and property of the defaulter and of his surety. If on the other hand the distraint is adjudged to be vexatious or groundless, the Collector, besides

Procedure after institution of suit to contest distrainer's demand.

directing the release of the distrained property, may award such damages in favor of the plaintiff as the circumstances of the case shall seem to require.

Any person, whose property has been distrained for arrears from another, may sue distrainer, &c.

CXXXIX. If any person shall claim as his own property which has been distrained for arrears of rent alleged to be due from any other person, such person may institute a suit against the distrainer and such other person, to try the right to the property, in the same manner, and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as the person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand. When any such suit is instituted, the property may be released upon security being given for the value of the same. If the claim is dismissed, the Collector shall make an order for the sale of the property or the recovery of the value thereof, as the case may be, for the benefit of the distrainer. If the clam is upheld, the Collector shall decree the release of the distrained property with costs, and such damages (if any) as the circumstances of the case may seem to require. Provided always, that no claim to any produce of land liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage, or otherwise, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any Civil Court prevail against such prior claim.

Proviso.

Procedure if distrainer's right to distrain be disputed.

CXL. If, in any case in which property has been distrained for an arrear of rent and a suit has been instituted to contest the demand, the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such other person before and up to the time of the commencement of the suit shall be enquired into, and the suit shall be decided according to the result of such enquiry. Provided always, that the decision of the Collector shall not affect the right of either party who may have a legal title to the rent of the land, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Proviso.

Persons prevented from suing in time to save their property from sale, may sue for damages.

CXLI. If any person, whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing suit to contest the demand, or to try the right to the property as the case may be, within the period allowed by Sections CXXIV and CXXXIX and his property is in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property.

Also persons aggrieved by any illegal act of distrainer.

CXLII. If any person empowered to distrain property, or employed for the purpose under a written authority by a person so empowered, shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged, or destroyed by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover damages for any injury which he may have thereby sustained.

Unlawful distraint.

CXLIII. If any person not empowered to distrain property under Sections CXII and CXIV of this Act, nor employed for the purpose under a written authority by a person so empowered, shall distrain or sell or cause to be sold any property under color of this Act, the owner of the property may institute a suit under this Act to recover damages from such person for any injury which he may have sustained from the distraint or sale. The said person shall be held to have, committed criminal trespass, and shall be subject to the penalties for that offence, in addition to any damages which may be awarded against him in such suit.

Time for commencing suits for damages.

CXLIV. Provided always, that any suit which may be instituted under any of the last three Sections shall be commenced within three months from the date of the occurrence of the cause of action.

Resistance of distraint.

CXLV. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Collector, upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested, and, if the offence be proved and the offender be the owner of the property, shall order him to be imprisoned in the Civil jail for six months, or until the whole arrear due to the distrainer with all expenses and costs shall sooner be paid or levied by distress

and sale of the property of the offender under warrant of the Collector. If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding One Hundred Rupees, or in default of payment thereof to imprisonment for a period not exceeding two months.

Service of process.

CXLVI. Every process issued by a Collector under this Act shall be under the seal and signature of the Collector, and shall be served or executed by the Nazir or by such other officer as the Collector may direct at the cost of the party at whose instance it issued. The amount of such cost, and, in the case of summons to a witness, any sum required for the travelling expenses of such witness, shall be deposited in Court before the process is issued. Provided that, if in any case the Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

Proviso.

Resistance of process.

CXLVII. Any resistance or opposition to the lawful process of a Collector under this Act may be punished by the Collector according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of Civil justice. When in any such case the offender is not present in Court, the Collector may summon him to answer to the charge, and, if after due service of the summons he fail to attend, may issue a warrant for his apprehension. Orders passed by Collectors under this Section shall not be deemed to be orders relating to the trial of suits or to the execution of decrees within the meaning of Section CLI.

Collector competent to hold a Court in any part of his jurisdiction.

CXLVIII. It shall be competent to the Collector to hold a Court for hearing and determining suits under this Act in any place within the limits of his District or local jurisdiction, provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

CXLIX. Repealed by Act XX. 1865.

Powers of Deputy Collectors.

CL. All the powers vested in the Collector by the preceding Sections of this Act may be exercised by any Deputy Collector in cases referred to him by a Collector, and in all cases without such reference, by any Deputy Collector placed in charge of any Sub-division of a District ; and all applications and reports allowed or required by this Act to be made to the Collector may be made to any Deputy Collector having such local jurisdiction.

Collectors and Deputy Collectors how far to be subject to direction and control of the Commissioners and the Board of Revenue.

CLI. In the performance of their duties under this Act the Collectors and Deputy Collectors shall be subject to the general direction and control of the Commissioners and the Board of Revenue ; and the Deputy Collectors shall be subject to the direction and control of the Collectors to whom they are subordinate. All orders passed by a Collector under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof, or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner ; and all such orders passed by a Deputy Collector shall be appealable to the Collector; but no Judgment of a Collector or Deputy Collector in any suit and no order of a Collector or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

Time for presenting appeals from orders.

CLII. Every appeal against the order of a Collector shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Collector within fifteen days from the date of the order. Orders passed in appeal by a Commissioner or a Collector shall not be open to any further appeal, but the Board of Revenue or the Commissioner may call for any case, and pass such orders thereon as they may think proper.

No appeal from any decree of Collector for money below 100 Rupees unless it involve the right to enhance rents or a title to land.

CLIII. In suits under Clauses 2, 4, and 7 of Section XXIII and under Section XXIV of this Act tried and decided by a Collector, if the amount sued for or the value of the property claimed does not exceed One Hundred Rupees, the judgment of the Collector shall be final, and not open to revision or appeal except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a ryot or tenant, or any question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in Sections CLX and CLXI of this Act.

When Collector may grant a re-hearing upon the discovery of new evidence, &c.

CLIV. In suits in which the judgment of the Collector is final as provided in the last preceding Section, the Collector may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of, or could not produce at the time of trial.

Appeal from decision of Deputy Collector.

CLV. When any such suit as aforesaid, in which if tried and decided by a Collector the judgment of the Collector would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Collector.

Petition of appeal to be on stamp paper, &c.

CLVI. The petition of appeal shall be written on stamp paper of eight annas value, and shall be presented to the Collector within fifteen days from the date of the decree, provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Procedure in appeal.

CLVII. The Collector shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summons. If, on the day fixed for hearing the appeal or any other day to which the hearing may be adjourned, the appellant shall not appear in person or by an agent, the appeal shall be dismissed for default. If the appellant shall appear, and the respondent shall not appear in person or by an agent, the appeal shall be heard *ex-parte.*

Re admission of appeal.

CLVIII. If an appeal be dismissed for default of prosecution, the appellant may within fifteen days from the date of the dismissal apply to the Collector for the re-admission of the appeal, and if it shall be proved to the satisfaction of the Collector that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector may re-admit the appeal.

Judgment in appeal.

CLIX. After hearing the appeal the Collector shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Collector shall be final.

In what suits appeal to lie to Zillah Judge. To Sudder Court.

CLX. In all suits other than those in which, when tried and decided by a Collector the judgment of the Collector is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Collector an appeal from the judgment of the Collector or Deputy Collector shall lie to the Zillah Judge; unless the amount or value in dispute exceed five thousand Rupees, in which case the appeal shall lie to the Sudder Court.

Presentation and hearing of appeals.

CLXI. The petition of appeal shall be written on the stamp paper prescribed for appeals from the subordinate Civil Courts with reference to the amount or value of the property involved in the appeal, and the rules in force in regard to the time within which appeals from the decisions of such Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the Zillah Judge or Sudder Court under this Act.

Suits to be preferred in the Revenue Office of the District or Sub-division in which the greater part of the lands is situate.

CLXII. Suits under this Act shall be preferred in the Revenue Office of the District, or when a Sub-division of a District has been placed under the jurisdiction of a Deputy Collector, in the Revenue Office of the Sub-division in which the cause of action shall have arisen. Provided always, that the Collector may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector. If the lands comprised in any talook, farm, or other tenure, or any lands held under one lease or engagement or at one entire rent in respect of which arrears of rent may be due, are situated in more than one District or Sub-division, the District or Sub-division in which the greater part of such lands is situate shall be held to be the District or Sub-division in which the cause of action has arisen; and if any question shall be raised respecting the District or Sub-division in which the greater part of the lands is situate, the Board of Revenue, or, if all the lands be situate in one District, the Collector of the District shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

Proviso.

Except as above, Collector not to exercise jurisdiction as to lands situate beyond his District.

CLXIII. Except as provided in the last preceding Section, no Collector shall exercise any jurisdiction under this Act in respect to any lands situate beyond the limits of the District to which he is appointed, by reason of such lands forming part of an estate the revenue of which is paid into the Treasury of the said District.

Deputy Collector entrusted with Police functions, not to exercise judicial powers under this Act.

CLXIV. No Deputy Collector appointed under Regulation IX. 1833 of the Bengal Code shall exercise any judicial powers or other jurisdiction under this Act, if entrusted with any Police functions.

What powers to be exercised by Assistants to Collector.

CLXV. Assistants to Collectors shall not exercise any powers under this Act unless invested by Government with the powers of Deputy Collectors, in which case they may exercise the powers hereby assigned to Deputy Collectors.

Saving of rights of proprietors in respect of Putnee Talooks, &c., under Regulation VIII. 1819.

CLXVI. Nothing contained in this Act shall be held to affect the right vested in proprietors of land under direct engagements with Government, of bringing to sale for arrears of rent Putnee Talooks and other similar tenures under the provisions of Regulation VIII. 1819.

CLXVII. Repealed by Act XIV. of 1870.

CLXVIII. The words "Civil Jail" as used in this Act shall include the Civil Jail of the Zillah, and any place appointed by the Executive Government for the confinement of prisoners by any Court constituted under this Act. The word "Nazir" shall include any officer of a Court authorized to serve or execute its process. Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and words importing the masculine gender shall include females.

Commencement of Act.

"Civil Jail." "Nazir." Number. Gender.

SCHEDULE.

FORM A. *(See Section 44.)*

FORM OF SUMMONS TO DEFENDANT.

No. (of suit) dated
In the Court of

A. B., Plaintiff.

[*Name, description, and address of plaintiff.*]

C. D., Defendant.

[*Name, description, and address of defendant.*]

Whereas the said A. B. has brought a claim against you in this Court for (*here specify particulars of claim as given in the statement,*) you are hereby required to appear in person in this Court on the day of [*if not specially required to appear in person, state, "in person or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"*] to answer the above-named plaintiff, and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

FORM B. (*See Section 49.*)

FORM OF WARRANT OF ARREST.

No. (of suit) dated
In the Court of

A B., Plaintiff.
C. D., Defendant.

To the Nazir of the Court of the Collector of———

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 185

FORM C. *(See Section 49.)*

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A. B., Plaintiff.

[*Name, description, and address of plaintiff.*]

C. D., Defendant.

[*Name, description, and address of defendant.*]

Whereas the said A. B. has brought a claim against you in this Court for (*here specify particulars of claim as given in the statement*) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

FORM D. (*See Section 51.*).

FORM OF SECURITY BOND FOR APPEARANCE OF DEFENDANT.

Whereas A. B., plaintiff, has instituted a suit in the Court of the Collector of against C. D., defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I, E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. If the suit be for the delivery of papers or accounts specify some sum to be fixed by the Collector.

FORM E. (*See Section 86.*)

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.
C. D., Defendant.

To the Nazir of the Court of the Collector of———

Whereas the said C. D. was directed by a decree of this Court under date the day of 185 , to pay to A. B. the sum of and for costs of suit amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D. and to bring him with all convenient speed before this Court to be dealt with according to law.

FORM F. (*See Section 86.*)

WRIT OF EXECUTION AGAINST THE EFFECTS.

A. B., Plaintiff.
C. D., Defendant.

To the Nazir of the Court of the Collector of———

Whereas C. D. was directed by a decree of this Court under date the day of 185 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such moveable property of the said C. D. as (is described in the list annexed, and) [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D., on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner payed ; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

FORM G. (*See Section 124.*)

FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY.

Office Commissioner for sale of distrained property.

A. B., Distrainer.

[*Name, description, and address of the owner of the property.*]

Whereas the said A. B. has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said A. B., or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 185

BENGAL SECRETARIAT LIBRARY

ACT No. XI. OF 1859.*

(Received the assent of the Governor-General on the 4th May 1859.)

SALES OF LAND FOR ARREARS OF REVENUE (BENGAL) ACT.

ARRANGEMENT OF SECTIONS.

1. *Laws repealed.*
2. *What is an arrear of revenue.*
3. *Latest day of payment.*
4. *In Sylhet, personal property may in the first instance be distrained, &c.*
5. *Proviso in the case of certain descriptions of arrears.*
6. *Notifications of sale to be issued, and no tender after latest day of payment to stop the sale.*
7. *Notice to ryots, &c.*
8. *Claims held by a defaulter not to invalidate a sale.*
9. *Deposits receivable from persons not proprietors.*
10. *Separation of shares held in common, by the opening of a separate account.*
11. *Separation of shares consisting of specific portions of land.*
12. *If objection be made, parties to be referred to the Civil Court.*
13. *Sale of separate shares.*
14. *Entire estate of share may be sold under certain conditions.*
15. *Deposit for the protection of any estate from sale.*
16. *Withdrawal of the deposit.*
17. *Estates under Court of Wards or under attachment.*
18. *Estates may be specially exempted from sale. Proviso.*
19. *Sales where to be made.*
20. *Adjournment of sales.*
21. *Order of selling.*
22. *Deposit on account of purchase money.*
23. *Full payment of purchase money.*
24. *Re-sale.*
25. *Appeals.*
26. *Annulment of sale in special cases.*
27. *Sales when final.*
28. *Certificate of sales.*
29. *Delivery of possession.*
30. *Liability of purchaser.*
31. *Application of purchase money.*
32. *Notification of annulment of sale.*
33. *Jurisdiction of Civil Courts in suits to annul sales. Proviso.*
34. *Effects of annulment by decree of Court of sales under this Act.*
35. *If sale annuled, purchase money to be refunded.*
36. *Suit brought to oust a purchaser on the ground that the purchase was made for another person, to be dismissed.*
37. *Rights of a purchaser of a settled estate sold for its own arrears. Proviso.*
38. *Registration of talookdaree tenures created after settlement, and held for terms of years.*
39. *Common and special registry.*
40. *Application for Registry.*
41. *Procedure on application for common registry.*
42. *Procedure on application for special registry.*
43. *Registration of leases of certain lands.*
44. *Registration of old tenures. Proviso.*
46. *Expenses of measurement, survey, or local enquiry.*
47. *Civil Court not competent to order entry in the special register.*
48. *Suit for the cancelment of the registry of a tenure or farm.*
49. *Proceedings of Revenue Authorities in the registration of tenures, &c.*
50. *Effect of entry in the special register.*
51. *Protection of talookdaree tenures pending enquiry, in case of sale of parent estate for arrears of revenue.*

* Act III. 1862 B. C. to be read as part of this Act, also Act VII. 1868 B. C.

52. Rights of a purchaser of an estate not permanently settled sold for its own arrears.
53. Rights of a purchaser, being a sharer in any estate. And of a purchaser of an estate, not sold for its own arrears.
54. Rights of purchasers of shares of estate.
55. Recovery of arrears due to defaulters.
56. Punishment for contempt.
57. Default in making deposit to be considered a contempt.
58. Government may purchase at a sale.
60. Regulations VII. 1822 and IX. 1825 to be in force in certain estates.
61. Interpretation.
62. Application and commencement of this Act.

An Act to improve the law relating to sales of Land for arrears of Revenue in the Lower Provinces under the Bengal Presidency.

WHEREAS it is expedient to discontinue the practice of obtaining the previous sanction of the Board of Revenue to sales of estates for arrears of revenue or other demands of Government, in the province of Cuttack; and whereas it is just that a person having a lien upon an estate, and paying the money necessary to protect it from sale for arrears of revenue, should be reasonably secured: and whereas it is expedient to afford sharers in estates, who duly pay their shares of the Sudder Jumma of their estates, easy means of protecting their shares from sale by reason of the default of their co-sharers: and whereas it is expedient to afford landholders, particularly absentees, facilities in guarding against the accidental sale of their estates for arrears of revenue by reason of the neglect or fraud of their agents: and whereas it is expedient to provide for the voluntary registration of dependent talooks existing at the time of settlement: and whereas it is expedient to protect the holders of registered under-tenures created since the settlement, and not resumable by the grantors or their representatives, from loss by the avoidance of their tenures on the occasion of a sale of the superior estate for arrears of public revenue, when the arrears can be realized by such sale: and to give absolute security to such tenures by special registry, when shown to be held at rents sufficient for the security of the revenue: and it is therefore proper, for the above and other purposes, to improve the law relating to sales of land for arrears of revenue in the Provinces of Bengal, Behar, and Orissa: It is enacted as follows:—

I. Repealed by Act XIV. of 1870.

What is an arrear of revenue.

II. If the whole or a portion of a kist or instalment of any month of the era, according to which the settlement and kistbundee of any mehal have been regulated, be unpaid on the first of the following month of such era, the sum so remaining unpaid shall be considered an arrear of revenue.

Latest day of payment.

III. Upon the promulgation of this Act, the Board of Revenue at Calcutta shall determine upon what dates all arrears of revenue and all demands which, by the Regulations and Acts in force, are directed to be realized in the same manner as arrears of revenue, shall be paid up in each District under their jurisdiction, in default of which payment the estates in arrear in those districts, except as hereinafter provided, shall be sold at public auction to the highest bidder. And the said Board shall give notice of the dates so fixed in the official Gazette, and shall direct corresponding publication to be made, as far as regards each district in the language of that district, in the office of the Collector or other Officer duly authorized to hold sales under this Act, in the Courts of the Judge, Magistrate, (or Joint Magistrate, as the case may be,) and Moonsiffs, and at every Thannah station of that district; and the dates so fixed shall not be changed except by the said Board by advertisement and notification, in the manner above described, to be issued at least three months before the close of the official year preceding that in which the new date is, or dates are, to take effect.

In Sylhet, personal property of defaulters may in the first instance be distrained and sold.

IV. Provided that, in the district of Sylhet, the Collector may be authorized by the Board of Revenue to proceed in the first instance by the distress and sale of the personal property of defaulters, instead of by the sale of their estates.

Proviso in the case of certain descriptions of arrears.

V. Provided always, that no estate, and no share or interest in any estate, shall be sold for the recovery of arrears or demands of the descriptions mentioned below, otherwise than after a notification in the language of the district, specifying the nature and amount of the arrear or demand and the latest date on which payment thereof shall be received, shall have been affixed for a period of not less than fifteen clear days preceding the date fixed for payment according to Section III of this Act, in the office of the Collector or other Officer duly authorized to hold sales under this Act, in the Court of the Judge within whose jurisdiction the land

advertised lies, and in the Moonsiff's Court and Police Thannah of the division in which the estate or share of an estate to which the notification relates, is situated; or if the estate or share of an estate be situated within the jurisdiction of more than one Moonsiff's Court or Police Thannah, in some one or more of such Courts or Thannahs; and also at the cutcherry of the malgoozar or owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, the same to be certified by the peon or other person employed for the purpose.

First. Arrears other than those of the current year, or of the year immediately preceding.

Secondly. Arrears due on account of estates other than that to be sold.

Thirdly. Arrears of estates under attachment by order of any judicial authority, or managed by the Collector in accordance with such order.

Fourthly. Arrears due on account of tuccavee, poolbundee, or other demands not being land revenue, but recoverable by the same process as arrears of land revenue.

Notifications of sale to be issued, and no tender after latest day of payment to stop the sale.

VI. The Collector or other Officer duly authorized to hold sales under this Act shall, as soon as possible after the latest day of payment fixed in the manner prescribed in Section III of this Act, issue notifications in the language of the district, to be affixed in his own Office and in the Court of the Judge of the district, specifying the estates or shares of estates which will be sold as aforesaid, and the day on which the sale of the same will commence, which day shall not be less than fifteen or more than thirty clear days from the date of affixing the notification in the officer of the Collector or other Officer as aforesaid. And if the Government revenue of any estate or share of an estate to be sold exceed the sum of Five Hundred Rupees, a notification of the sale of such estate or share of an estate shall be published in the official Gazette. Except as hereinafter provided, all estates or shares of estates so specified shall, on the day notified for sale, or on the day or days following, be put up to public auction by and in the presence of the Collector or other Officer as aforesaid, and shall be sold to the highest bidder. And no payment, or tender of payment, made after sunset of the said latest day of payment, shall bar or interfere with the sale, either at the time of sale or after its conclusion.

Notice to ryots, &c.

VII. Whenever an estate or share of an estate is notified for sale as provided by Section VI of this Act, the Collector or other Officer as aforesaid shall affix a proclamation in the language of the district, in his own Office, and as soon thereafter as may be in the Moonsiffs' Courts and Police Thannahs within which the estate or share of an estate, or any part of it, is situated, and also at the cutcherry of the malgoozar or the owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, forbidding the ryots and under-tenants to pay to the defaulting proprietor any rent which has fallen due after the day fixed for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums so paid.

Claims against Government held by a defaulter not to invalidate a sale.

VIII. No claim to abatement or remission of revenue, unless the same shall have been allowed by the authority of Government, and no private demand or cause of action whatever, held or supposed to be held by any defaulter against Government, shall bar or render void or voidable a sale under this Act; nor shall the plea that money belonging to the defaulter, and sufficient to pay the arrear of revenue due, was in the Collectors hands, bar or render void or voidable a sale under this Act, unless such money stand in the defaulter's name alone and without dispute, and unless, after application in due time made by the defaulter, or after the written agreement provided for in Section XV of this Act, the Collector shall have neglected, or refused on insufficient grounds, to transfer it in payment of the arrear of revenue due.

Deposits receivable from persons not proprietors.

IX. The Collector or other Officer as aforesaid shall, at any time before sunset of the latest day of payment determined according to Section III of this Act, receive as a deposit from any person not being a proprietor of the estate or share of an estate in arrear, the amount of the arrear of revenue due, to be credited in payment of the arrear at sunset as aforesaid, unless before that time the arrear shall have been paid by a defaulting proprietor of the estate. And in case the person so depositing, whose money shall have been credited in the manner aforesaid, shall be a party in a suit pending before a Court of Justice for the possession of the estate or share from which the arrear is due, or any part thereof, it shall be competent to the said Court to order the said party to be put into temporary possession of the said estate or share, or part thereof, subject to the rules in force for taking security in the cases of parties in Civil suits. And if the person so depositing whose money shall have been credited as aforesaid, shall prove before a competent Civil

Court that the deposit was made in order to protect an interest of the said person, which would have been endangered or damaged by the sale, or which he believed in good faith would have been endangered or damaged by the sale, he shall be entitled to recover the amount of the deposit, with or without interest as the Court may determine, from the defaulting proprietor. And if the party so depositing, whose money shall have been credited as aforesaid, shall prove before such a Court that the deposit was necessary in order to protect any lien he had on the estate or share or part thereof, the amount so credited shall be added to the amount of the original lien.

Separation of shares held in common, by the opening of a separate account.

X. When a recorded sharer of a joint estate, held in common tenancy, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the share held in the estate by the applicant. The Collector shall then cause to be published in his own Office, in the Court of the Judge, Magistrate (or Joint Magistrate, as the case may be,) and Moonsiffs, and in the Police Thannahs in whose jurisdiction the estate or any part thereof is situated, as well as on some conspicuous part of the estate itself, a copy of the application made to him. If within six weeks from the date of the publication of these notices, no objection is made by any other recorded sharer, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

Separation of shares consisting of specific portions of land, by the opening of a separate account.

XI. When a recorded sharer of a joint estate, whose share consists of a specific portion of the land of the estate, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the land comprised in his share, and of the boundaries and extent thereof, together with a statement of the amount of sudder jumma heretofore paid on account of it. On the receipt of this application, the Collector shall cause it to be published in the manner prescribed for publication of notice in the last preceding Section. In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

If objection be made, parties to be referred to the Civil Court.

XII. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the applicant has no right to the share claimed by him, or that is interest in the estate is less or other than that claimed by him, or, if the application be in respect of a specific portion of the land of an estate, that the amount of sudder jumma stated by the applicant to have been heretofore paid on account of such portion of land, is not the amount which has been recognized by the other sharers as the jumma thereof, the Collector shall refer the parties to the Civil Court, and shall suspend proceedings until the question at issue is judicially determined.

Sale of separate shares.

XIII. Whenever the Collector shall have ordered a separate account or accounts to be kept for one or more shares, if the estate shall become liable to sale for arrears of revenue, the Collector or other Officer as aforesaid in the first place shall put up to sale only that share or those shares of the estate from which according to the separate accounts, an arrear of revenue may be due. In all such cases notice of the intention of excluding the share or shares from which no arrear is due, shall be given in the advertisement of sale prescribed in Section VI of this Act. The share or shares sold, together with the share or shares excluded from the sale, shall continue to constitute one integral estate, the share or shares sold being charged with the separate portion, or the aggregate of the several separate portions, or jumma assigned thereto.

Entire estate may be sold under certain conditions.

XIV. If in any case of a sale held according to the provisions of the last preceding Section, the highest offer for the share exposed to sale shall not equal the amount of arrear due thereupon to the date of sale, the Collector or other Officer as aforesaid shall stop the sale, and shall declare that the entire estate will be put up to sale for arrears of revenue at a future date, unless the other recorded sharer or sharers, or one or more of them, shall within ten days purchase the share in arrear by paying to Government the whole arrear due from such share. If such purchase be completed, the Collector or other Officer as aforesaid shall give such certificate and delivery of possession as are provided for in Sections

XXVIII and XXIX of this Act, to the purchaser or purchasers, who shall have the same rights as if the share had been purchased by him or them at the sale. If no such purchase be made within ten days as aforesaid. the entire estate shall be sold, after notification for such period and publication in such manner as is prescribed in Section VI of this Act.

Deposit for the protection of an estate from sale.

XV. If any recorded proprietor or co-partner of an estate shall deposit with the Collector money, or Government securities endorsed and made payable to the order of the Collector, and shall sign an agreement pledging the same to Government by way of security for the jumma of the entire estate and authorizing the Collector to apply to the payment of any arrear of revenue that may become due from that estate the whole or any portion of the said money or securities that may be necessary for that purpose, then, in the case of any arrear of revenue due from the said estate not being paid before sunset of the latest day of payment fixed under Section III of this Act, the Collector shall apply to the payment of such arrear the said money or securities, or such part thereof or of any interest due on the said securities as may be necessary; and for this purpose the Collector shall first apply any money that may be in his hands and any interest that may be due upon such securities, and may then sell and transfer the securities for any balance that may remain. And so long as any money or securities as aforesaid, sufficient to cover any arrear that may fall due, shall remain and be available as aforesaid, the estate for the protection of which the said deposit was made shall be exempted from sale for arrears of revenue. All monies and securities so deposited shall be exempt from attachment otherwise than in execution of a decree of a Civil Court.

Withdrawal of the deposit.

XVI. It shall be competent to the person making a deposit under the provision of the last preceding Section, or his representative or assignee, at any time to withdraw the deposit and to revoke the pledge of the same.

Estates under Court of Wards or under attachment.

XVII. No estate shall be liable to sale for the recovery of arrears which have accrued during the period of its being under the management of the Court of Wards; and no estate the sole property of a minor or minors, and descended to him or them by the regular course of inheritance duly notified to the Collector for the information of the Court of Wards, but of which the Court of Wards has not assumed the management under Regulation VI. 1822, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until the minor or minors, or one of them, shall have attained the full age of eighteen years. And no estate, held under attachment by the revenue authorities otherwise than by order of a judicial authority, shall be liable to sale for arrears accruing whilst it was so held under attachment. And no estate, held under attachment or managed by a Revenue Officer in pursuance of an order of a judicial authority, shall be liable to sale for the recovery of arrears of revenue accruing during the period of such attachment or management, until after the end of the year in which such arrears accrued.

Estates may be specially exempted from sale.

XVIII. It shall be competent to the Collector or other Officer as aforesaid, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale; and in like manner it shall be competent to the Commissioner of Revenue, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale, by a special order to the Collector or other Officer as aforesaid to that effect in each case; and no such sale shall be legal, if held after the receipt of such order of exemption. Provided, however, and it is hereby enacted, that the Collector or other Officer as aforesaid or the Commissioner shall duly record in a proceeding the reason for granting such exemption; and provided also, that an order for exemption so issued by the Commissioner shall not affect the legality of a sale which may have taken place before the receipt by the Collector or other Officer as aforesaid of the order of exemption.

Proviso.

Sales where to be made.

XIX. Sales shall ordinarily be made by the Collector or other Officer as aforesaid in the land revenue Office at the Sudder Station of the District: provided, however, that it shall be competent to the Board of Revenue to prescribe a place for holding sales other than such Office whenever they shall consider it beneficial to the parties concerned.

Adjournment of sales.

XX. In case the Collector or other Officer as aforesaid shall be unable from sickness, from the occurrence of a holiday, or from any other cause, to commence the sale on the day of sale fixed as aforesaid; or if, having commenced it, he be unable, from any cause, to complete it; he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the commissioner of Revenue, and announcing the adjournment by a written proclamation stuck up in his cutcherry; and so on, from day to day, until he shall be able to commence

upon, or to complete the sale; but, with the exception of adjournments so made, recorded, and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.

Order of selling.

XXI. On the day of sale fixed according to Section VI of this Act sale shall proceed in regular order; the estate to be sold bearing the lowest number on the towjee or register in use in the Collector's Office of the district being put up first, and so on, in regular sequence; and it shall not be lawful for the Collector or other Officer as aforesaid to put up any estate out of its regular order by number, except where it may be necessary to do so. on default of deposit, as provided in Section XXII of this Act.

Deposit on account of purchase money.

XXII. The party who shall be declared the purchaser of an estate or share of an estate, at any such public sale as aforesaid, shall be required to deposit immediately or as soon after the conclusion of the sale of the estate or share as the Collector or other Officers as aforesaid may think necessary, either in cash, Bank of Bengal Notes, or Post Bills or Government Securities to be valued at the market rate of the day, duly endorsed, twenty-five per cent on the amount of his bid; and in default of such deposit, the estate or share shall forthwith be put up again and sold.

Full payment of purchase money.

XXIII. The full amount of purchase money shall be made good by the purchaser before sunset of the thirtieth day from that on which the sale of the estate or share of an estate bought by him took place, reckoning that day as one of the thirty; or if the thirtieth day be a Sunday or other close holiday, then on the first office day after the thirtieth: and in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to Government, the estate or share shall be resold, and the defaulting purchaser shall forfeit all claim to the estate or share, or to any part of the sum for which it may subsequently be sold. And, in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorized for realizing an arrear of public revenue, and such difference shall be taken and considered to be a part of the purchase money and shall be dealt with in the manner hereinafter prescribed for the disposal thereof.

Re-sale.

XXIV. When default is made in the payment of purchase money a notification of the intended re-sale shall be published for the period and in the manner prescribed in Section VI of this Act, but such notification shall not be published until the expiration of three clear days after the day on which the default shall have occurred; and if the payment or tender of payment of the arrear on account of which the estate or share was first sold, and of any arrear which may have subsequently become due shall be made by or on behalf of the proprietor of the estate or share before sunset of the third day, the issue of the notification of re-sale shall be stayed. The rules contained in the last preceding Section shall be applicable to every such resale. Provided that, if default of payment of purchase money shall occur more than once, the amount to be recovered from the defaulting bidders shall be the difference between the highest bid and the proceeds of the sale eventually consummated, which amount may be levid in manner aforesaid from any of the defaulting bidders to the extent of the amount by which his bid exceeds the amount realized.

Proviso.

XXV. Repealed by Act VII. 1868 B. C.

Annulment of sale in special cases.

XXVI. It shall be competent to the Commissioner of Revenue, on the ground of hardship or injustice, to suspend the passing of final orders in any case of appeal from a sale, and to represent the case to the Board of Revenue, who, if they see cause, may recommend to the local Government to annul the sale; and the local Government in any such case may annul the sale and cause the estate or share of an estate to be restored to the proprietor on such conditions as may appear equitable and proper.

Sales when final.

XXVII. All sales of which the purchase money has been paid up as prescribed in Section XXIII of this Act, and against which no appeal shall have been preferred, shall be final and conclusive at noon, of the thirtieth day from the day of sale, reckoning the said day of sale as the first of the said thirty days. And sales, against which an appeal may have been preferred and dismissed by the Commissioner, shall be final and conclusive from the date of such dismissal if more than thirty days from the day of sale, or if less, then at noon of the thirtieth day as above provided.

Certificate of sales.

XXVIII. Immediately upon a sale becoming final and conclusive, the Collector or other Officer as aforesaid shall give to the purchaser a certificate of title in the form prescribed in Schedule A annexed to this Act. And the said certificate shall be deemed in any Court of Justice sufficient evidence of the title to the estate or share of an estate sold being vested in the person or persons named from the date specified; and the Collector shall also notify such transfer by writ-

ten proclamation in his own Office, and in the Courts of the Moonsiffs and Police Thannahs within whose jurisdictions any part of the estate or share sold shall be situated.

Delivery of possession.

XXIX. The Collector or other Officer as aforesaid shall order delivery of possession of the estate or share purchased to be made by removing any person who may refuse to vacate the same, and by proclamation to the occupants of the property by beat of drum or in such other mode as may be customary, at some convenient place or places; and by affixing a copy of the certificate at the Mal cutchery or in some conspicuous place of the estate or share of an estate purchased.

Liability of purchaser.

XXX. The party certified as the proprietor of an estate or share of an estate by purchase under this Act, shall be answerable for all instalments of the revenue of Government which may fall due after the latest day of payment aforesaid.

Application of purchase money.

XXXI. The Collector shall apply the purchase money first to the liquidation of all arrears due upon the latest day of payment from the estate or share of an estate sold; and secondly to the liquidation of all outstanding demands debited to the estate or share of an estate in the public accounts of the District; holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate or share of an estate sold, or their heirs or representatives, to be paid to his or their receipt on demand in the manner following; to wit, in shares proportioned to their recorded interest in the estate or share of an estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt. And if, before payment to the late proprietor or proprietors of any surplus that may remain of the chase money, the same be claimed by any creditor in satisfaction of a debt, such surplus shall not be payable to such claimant, nor shall it be withheld from the proprietor, except under precept of a Civil Court.

Notification of annulment of sale.

XXXII. The annulment by a Commissioner or by Government of a sale made under this Act shall be publicly notified by the Collector or other Officer as aforesaid, in the same manner as the becoming final and conclusive of sales is required to be notified by Section XXVIII of this Act; and the amount of deposit and balance of purchase money shall be forthwith returned to the purchaser with interest thereon at the highest rates of the current Public Securities; which shall be paid by the Government, unless the proprietor shall have become liable for the same under the provisions of Section XXV or Section XXVI of this Act.

Jurisdiction of Civil Courts in suits to annul sales.

XXXIII. No sale for arrears of revenue or other demands realizable in the same manner as arrears of revenue are realizable, made after the passing of this Act, shall be annulled by a Court of Justice, except upon the ground of its having been made contrary to the provisions of this Act; and then only on proof that the plaintiff has sustained substantial injury by reason of the irregularity complained of: and no such sale shall be annulled upon such ground, unless such ground shall have been declared and specified in an appeal made to the Commissioner under Section XXV of this Act: and no suit to annul a sale made under this Act shall be received by any Court of Justice, unless it shall be instituted within one year from the date of the sale becoming final and conclusive as provided in Section XXVII of this Act: and no person shall be contitled to contest the legality of a sale, after having received any portion of the purchase money. Provided, however, that nothing in this Act contained shall be construed to debar any person, considering himself wronged by any act or omission connected with a sale under this Act, from his remedy in a personal action for damages against the person by whose act or omission he considers himself to have been wronged.

Proviso.

Effects of annulment by decree of Court of sales under this Act.

XXXIV. If a sale made under this Act be annulled by a final decree of a Civil Court, application for the execution of such decree shall be made within six months after the date thereof; otherwise the party in whose favor such decree was passed shall lose all benefit therefrom. And no oder for restoring such decree-holder to possession shall be passed, until any amount of surplus purchase money that may have been paid away by order of a Civil Court be repaid by him, with interest at the highest rate of the current Government Securities. And if such party shall neglect to pay any amount so recoverable, within six months from the date of such final decree, he shall lose all benefit therefrom.

If sale annuled, purchase money to be refunded.

XXXV. In the event of a sale being annulled by a final decree of a Court of Justice, and the former proprietor being restored to possession, the purchase money shall be refunded to the purchaser by Government, together with interest at the highest rate of the current Public Securities.

Suit brought to oust a purchaser on the

XXXVI. Any suit brought to oust the certified purchaser as aforesaid on the ground that the purchase was made on behalf of another person not the

ground that the purchase was made for another person, to be dismissed.

certified purchaser, or on behalf partly of himself and partly of another person, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Rights of a purchaser of a permanently settled estate sold for its own arrears.

XXXVII. The purchaser of an entire estate in the permanently settled districts of Bengal, Behar, and Orissa, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement; and shall be entitled to avoid and annul all under-tenures and forthwith to reject all undertenants, with the following exceptions:

First. Istemraree or mokurreree tenures which have been held at a fixed rent from the time of the permanent settlement.

Secondly. Tenures existing at the time of settlement which have not been held at a fixed rent. Provided always, that the rents of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures.

Thirdly. Talookdaree and other similar tenures created since the time of settlement and held immediately of the proprietors of estates, and farms for terms of years so held, when such tenures and farms have been duly registered under the provisions of this Act.

Fourthly. Leases of lands whereon dwelling houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk.

And such a purchaser as is aforesaid shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, and if the same shall not have been held at a fixed rent, equal to the rent of good arable land, for a term exceeding twelve years; but not otherwise.

Proviso.

Provided always, that nothing in this Section contained shall be construed to entitle any such purchaser as aforesaid to eject any ryot, having a right of occupancy at a fixed rent or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such ryot otherwise than in the manner prescribed by such laws, or otherwise than the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do.

Registration of talookdaree tenures created after settlement and held for terms of years.

XXXVIII. The following rules for the registration of talookdaree and other similar tenures created since the time of settlement, and held immediately of the proprietors of estates, and of farms for terms of years so held, shall be observed.

Common and special registry.

XXXIX. There shall be two sets of registers, one for common registry and one for special registry. Common registry shall secure such tenures and farms against any auction purchaser at a sale for arrears of revenue except the Government. Special registry shall secure such tenures and farms against any auction purchaser at a sale for arrears of revenue including the Government.

Application for registry.

XL.* The holder of any talookdaree or other similar tenure, such as is described in Section XXXVIII. of this Act, desirous of registering it, shall apply by petition to the Collector of the District to which the estate belongs. The application shall state which description of registry is desired, and shall contain the following particulars so far as the same are ascertainable:—

1. The Pergunnah or Pergunnahs in which the tenure is situated.
2. The nature of the tenure.
3. The name or names of the village or villages whereof the land is composed, or wherein it is situated.
4. The area of the land comprised in the tenure, with its boundaries in complete detail.
5. The amount of rent payable annually for the tenure, and whether the rent is fixed for a term of years or in perpetuity, and the duties, if any, required to be performed on account of it.
6. The date of the deed constituting the tenure, or the date when the tenure was created.
7. The name of the proprietor who created the tenure.
8. The name of the original holder of the tenure.
9. The name of the present possessor, and if he be not the original holder, the mode in which he succeeded to the tenure, whether by inheritance, gift, purchase, or otherwise, and whether he holds jointly or solely.

* See Act III, 1862, Sec. 2 of the Lieutenant-Governor of Bengal in Council.

Holders of such farms as are described in the said Section may apply in like manner for registry of the same. The application shall contain such of the foregoing particulars as are applicable to farms.

Procedure on application for common registry.

XLI. When the application is for common registry. the Collector shall serve a notice on the recorded proprietor or proprietors of the estate in which the tenure or farm is situated, or the authorized agent of such proprietor or proprietors, with a copy of the application annexed; and shall cause a notice, with a copy of the application annexed, to be affixed in his Office, and at the Mal Cutcherry of the estate in which the tenure or farm is situated, or in such other place or places as in the opinion of the Collector may be best suited to give publicity to the application, requiring the proprietor or any party interested, within thirty days from the issue of the said notice, to file any objections he may have to the registry of the tenure or farm, or to any stat ement contained in the application. If within the limited time no objection is made, the Collector shall register the tenure or farm. If within the limited time an objection is made by any recorded proprietor, or by any party interested not being a proprietor, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, the Collector shall suspend proceedings, and shall refer the parties to the Civil Court; otherwise he shall grant the application. If the decision of the Civil Court be in favor of the applicant, the Collector, on the presentation of a copy of the final decree, shall register the tenure or farm.

Procedure on application for special registry.

XLII. When the application is for special registry, the Collector shall serve and issue the notices prescribed in the last preceding Section. If within the limited time no objection is made, the Collector shall cause any enquiry that he may deem necessary for the security of the Government revenue, to be made; and if he is satisfied that the Government revenue of the parent estate is sufficiently secured so far as it may be affected by the tenure or farm in question, he shall report the case to the Commissioner, who, if also satisfied on that point, shall direct the tenure or farm to be registered according to the application; otherwise the application shall be rejected. If within the limited time any recorded proprietor, or any party interested not being a proprietor, object to the registry, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and shall refer the parties to the Civil Court; otherwise he shall proceed as if no objection had been made. If the decision of the Civil Court be in favor of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time.

Registration of leases of certain lands.

XLIII.* Leases of lands of the description specified in the fourth exceptional class in Section XXXVII, may be registered, at the option of the holders, in the manner and under the rules hereinbefore provided for the registry of Talookdaree and other similar tenures.

Registration of old tenures.

XLIV.* Tenures of the first and second exceptional classes in Section XXXVII may be registered, at the option of the holders; and when so registered shall be entered only in the special register. Application for such registry shall contain the particulars specified in Section XL so far as the same are ascertainable, and notices shall be served and issued in the manner prescribed in Section XLI. If within the limited time no objection is made by any recorded proprietor or by any party interested not being a proprietor, the Collector shall make such enquiries as may be necessary to satisfy him as to the validity of the tenure; and if the result be to satisfy him that the tenure is valid, he shall report the case to the Commissioner, who, if also satisfied that the tenure is valid, shall direct it to be entered in the special register; otherwise the application for registry shall be rejected. If within the limited time any recorded proprietor or other party as aforesaid object to the registry of the tenure, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and refer the parties to the Civil Court; otherwise he shall proceed as if no objection had been made. If the decision of the Civil Court be in favor of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time. Provided always that nothing contained in this Section shall be understood as rendering registration necessary for the protection of *bonâ fide* tenures of the description herein referred to.

Proviso.

* See Act III, 1862, Sec. 2 of the Lieutenant-Governor of Bengal in Council.

XLV. Repealed by Sec. 1 Act III 1862. of the Lieutenant Governor of Bengal in Council.

Expenses of measurement, survey, or local enquiry.

XLVI. The actual expenses of any measurement, survey, or local enquiry made under Sections XLII and XLIV of this Act, shall be borne by the party who applies for the registry of his tenure or farm; and such party may be required by the Collector from time to time to make such advances on this account as he may consider necessary.

Civil Court not competent to order entry in the special register.

XLVII. No Civil Court shall be competent to order the Revenue Authorities to enter any tenure or farm in the special register. Provided always that the refusal of the Revenue Authorities so to register any tenure or farm shall not affect the title of the holder, whatever it may be.

Suit for the cancelment of the registry of a tenure or farm.

XLVIII. Subject to the general law of limitation, any person thinking himself wronged by the registry of a tenure or farm, may file a suit for the cancelment of the same.

Proceedings of Revenue Authorities in the registration of tenures, &c.

XLIX. In the execution of their functions in the registration of tenures and farms under this Act, all subordinate Revenue Authorities shall proceed in accordance with the general instructions which they may receive from the superior Revenue Authorities to whom they are subordinate, and from the local Government; and all orders passed under the Sections aforesaid shall be open to appeal in usual course. The order of a Commissioner for the special registry of a tenure under the provisions of this Act shall be open, at any time within one year from the date of registry, to revision by the Board of Revenue or the local Government, on the ground of the Government Revenue not having been sufficiently secured or of the invalidity of the tenure, as the case may be.

Effect of entry in the special register.

L. Entry in the special register shall be an effectual protection of the tenure or farm so registered, unless, in a suit instituted by Government in a Civil Court within the period allowed for suits for the recovery of the public revenue, a decree be passed pronouncing the registration to have been obtained by fraud, to the injury of the Government revenue. Provided, that a tenure or farm in the hands of a *bonâ fide* purchaser for value shall not be avoided by reason of such fraud. But the tenure or farm shall be liable to such amount of rent as would have been fair and equitable at the time of the special registry thereof, such amount to be fixed by the Collector.

Proviso.

Protection of talookdaree tenures pending enquiry, in case of sale of parent estate for arrears of revenue.

LI. Tenures and farms of the third exceptional class described in Section XXXVII of this Act, for the special registration of which application shall be made within the prescribed time, and in respect of which the Collector shall have commenced the enquiry prescribed in Section XLII, shall, in case of the sale of the parent estate for arrears of revenue, be protected pending the duration of such enquiry, and shall be protected eventually by registration, if the final award of the Revenue Authorities upon such application be in favor of the claimant.

Rights of a purchaser of an estate not permanently settled sold for its own arrears.

LII. The purchaser of an estate in a district not permanently settled, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be entitled to avoid and annual all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager, as well as all agreements with ryots or the like settled or accredited by the first engager or his representatives subsequently to the last settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to sate aside, alter or renew; saving always and except leases of lands whereon dwelling houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk, which leases or engagements shall, so long as the land is duly appropriated the such purposes, and the stipulated rent paid, continue in force and effect. Provided that nothing contained in this Section shall be construed to entitle any purchaser of land at a public sale for arrears of revenue to demand a higher rate of rent from any persons whose tenure or agreement may by annulled as aforesaid, than was demandable by the former proprietor, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the the land, or in cases in which it may be proved that, according to the custom of the pergunnah, mouzah, or other local division, such persons are liable to be called upon for any new assessment, or other demand not interdicted by the regulations of Government.

Proviso.

Rights of a purchaser, being a sharer in any estate. And of a purchaser of an estate not sold for its own arrears.

LIII. Excepting sharers in estates under butwarrah who may have saved their shares from sale under Sections XXXIII and XXXIV Regulation XIX. 1814, and sharers with whom the Collector, under Sections X and XI of this Act, has opened separate accounts, any recorded or unrecorded proprietor or co-partner, who may purchase the estate of which he is proprietor or co-partner; or

who by re-purchase or otherwise may recover possession of the said estate, after it has been sold for arrears under this Act; and likewise any purchaser of an estate sold for arrears or demands other than those accruing upon itself, shall by such purchase acquire the estate subject to all its encumbrances existing at the time of sale, and shall not acquire any rights in respect to under-tenants or ryots, which were not possessed by the previous proprietor at the time of the sale of the said estate.

Rights of purchasers of shares of estate.

LIV. When a share or shares of an estate may be sold under the provisions of Section XIII or Section XIV, the purchaser shall acquire the share or shares subject to all encumbrances, and shall not acquire any rights which were not possessed by the previous owner or owners.

Recovery of arrears due to defaulters.

LV. Arrears of rent which on the latest day of payment may be due to the defaulter from his under-tenants or ryots, shall, in the event of a sale, be recoverable by him after the said latest day, by any process except distraint which might have been issued by him for that purpose on or before the said latest day.

Punishment for contempt.

LVI. Any Collector or other officer as aforesaid conducting a sale under this Act shall be competent to punish any contempt committed in his presence in open cutchery or office for the time being, by fine, to an extent not exceeding Two Hundred Rupees, commutable, if not paid, to imprisonment in the Civil jail for a period not exceeding one month; and the Magistrate to whom such an offender may be sent by a Collector or other officer as aforesaid, shall carry his sentence into effect. Provided, that an appeal from any order passed under this Section shall lie to the Revenue Commissioner, whose decision shall be final.

Proviso.

Default in making deposit to be considered a contempt.

LVII. A default to make good a bid by making the deposit required by Section XXII of this Act, shall be held to be a contempt.

Government may purchase at a sale.

LVIII. When an estate is put up for sale under this Act for the recovery of arrears of revenue due thereon, if there be no bid, the Collector or other officer as aforesaid may purchase the estate on account of the Government for One Rupee, or, if the highest bid be insufficient to cover the said arrears and those subsequently accruing up to the date of sale, the Collector or other officer as aforesaid may take or purchase the estate on account of the Government at the highest amount bid; in both which cases the Government shall acquire the property subject to the provisions of this Act.

LIX. Repealed by Se. 1. Act III, 1862, of the Lieutenant Governor of Bengal in Council.

Regulations VII. 1822 and IX. 1825 to be in force in certain estates.

LX. The provisions of Regulation VII. 1822 and Regulation IX. 1825 shall be in force in every estate in any part of which a measurement, survey, or local enquiry may be made under this Act; and in every estate purchased or taken on account of Government under this Act.

Interpretation.

LXI. In the construction of this Act the word "Collector" shall include a Deputy Collector or other officer exercising by the anthority of Government the powers of a Collector or Deputy Collector.

Application and commencement of this Act.

LXII. The operation of this Act shall be confined to such parts of the Lower Provinces in the Presidency of Fort William in Bengal as are or shall be subject to the general Regulations of that Presidency.

SCHEUDLE A.

I certify that A. B has purchased under Act No. XI of 1859 the mehal (*or share of a mehal*) specified below, standing in the towjee of the district of and that his purchase took effect on the day of (*being the day after that fixed for last day of payment*).

(Signed) D. E.;
Collector.

SPECIFICATION.

(*if of an entire Mehal.*)

Towjee number
Name of Mehal
Name of the former proprietor
Sudder Jumma

(*if of a share of a Mehal.*)

Towjee number of the entire Mehal
Name of the entire Mahal
Sudder Jumma of the entire Mehal

Description of the share sold
Subordinate Towjee number of the share sold
Name of the former proprietor of the share sold
Sudder Jumma for which the share sold is separately liable.

SCHEDULE B.

FEES.

For filing an application under Section X or Section XI for opening a separate account for a share of an entire estate.

If the annual jumma of the share do not exceed 250 Rupees, 25-0-0.

If the annual jumma of the share exceed 250 Rupees and do not exceed 1,000 Rupees, at the rate of ten per cent. upon the jumma.

If the annual jumma of the share exceed 1,000 Rupees, at the rate of ten per cent upon 1,000 Rupees; and two per cent upon all above that amount.

For filing an application for a deposit of money or Government Securities under Section XV, half per cent. on the amount deposited.

For any interest on Government Securities so deposited, drawn by the Collector, half per cent. of the amount drawn.

For filing an application for withdrawal of a deposit under Section XVI, half per cent. of the amount withdrawn.

For filing an application under Section XL, XLIII, or XLIV, for the registration of an under-tenure or farm.

If the annual rent of the under-tenure do not exceed 500 Rupees, 25-0-0.

If the annual rent of the under-tenure exceed 500 Rupees and do not exceed 1,000 Rupees, at the rate of five per cent. upon the rent.

If the annual rent of the under-tenure exceed 1,000 Rupees, at the above rate up to 1,000 Rupees, and at one per cent. upon all above that amount.

ACT NO. XII. OF 1859.

(Received the assent of the Governor-General on the 4th May 1859.)

1. *Acts repealed.*
2. *How Pilots accused of breach of duty shall be brought to trial.*
3. *Appointment of judge.*
4. *Appointment of prosecutor.*
5. *Trial to be held before the judge and jury.*
6. *Lists of Merchants and Pilots liable to serve on the jury.*
7. *Notice to prosecutor and accused of time and place for appointing jury.*
8. *Appointment of jury.*
9. *Day of trial to be fixed, and summons to issue to jurors. Penalty for non-attendance.*
10. *Trial how to proceed, if any of the jurors do not attend.*
11. *Register of jurors who have served.*
12. *Jurors to be sworn.*
13. *Judge may summon witnesses to attend at a certain time and place. Examination of witnesses about to leave Calcutta.*
14. *Penalty on witnesses not attending, or refusing to give evidence.*
15. *Witnesses to be examined on oath, according to the rules in force in the Supreme Court.*
16. *Verdict of Jurors.*
17. *Sentence of Court, if the accused be found guilty. Schedule of offences and punishments to be prepared. Acquittal.*
18. *No sentence to be final, till approved by Government. Government may remit sentence or mitigate punishment..*
19. *If vendici of Jurors be manifestly contrary to evidence, or trial be otherwise insufficient.*
20. *Power of Government to make rules of practice.*
21. *Act not to restrict Marine Authorities or Government from passing orders upon a charge of breach of duty, where a trial is not deemed necessary.*
22. *Withdrawal of license from licensed Pilot.*
23. *Act applicable to persons in the Pilot Service and to licensed Pilots.*

An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.

WHEREAS it is expedient to amend the law for the trial of persons employed in the Pilot Service of Government at the Presidency of Fort William in Bengal, when accused of breach of duty, and to extend the same to persons licensed to act as Pilots at the said Presidency; it is enacted as follows:

I. Repealed by Act XIV. of 1870.

How Pilots accused of breach of duty shall be brought to trial.

II. When any person employed in the Pilot Service of Government at the Presidency of Fort William in Bengal, or licensed to act as a Pilot at the said Presidency, shall be accused of having committed any breach of duty while engaged in such service or acting under such license, and it shall appear to the Superintendent of Marine, or to the Lieutenant-Governor of Bengal, that such person ought to be brought to trial for such breach of duty, such person shall be brought to trial upon a charge or charges framed by the said Superintendent of Marine, or such other person as the said Lieutenant-Governor shall direct, before a Court constituted under the provisions of this Act.

Appointment of Judge.

III. The Lieutenant-Governor of Bengal shall appoint a fit person to be Judge of the said Court.

Appointment of Prosecutor.

IV. The Lieutenant-Governor shall appoint such person as he may think proper to conduct the proceedings before the Court as prosecutor on the part of Government.

Trial to be held before the Judge and Jury.

V. Every trial under this Act shall be held before the said Judge and a Jury composed of two Merchants of Calcutta, a Master of a merchant ship lying in the port of Calcutta, and a Pilot of not less than twenty years, service.

Lists of Merchants and Pilots liable to serve on the Jury.

VI. The Judge shall cause to be prepared and shall keep two separate lists, one containing the names of Merchants, the other containing the names of Pilots liable to serve on such Jury. The names in each list shall be arranged in alphabetical order, and the place of abode and quality or business of each person named shall be estated.

Notice to prosecuto and accused of time and place for appointing Jury.

VII. When the Judge shall be about to hold a trial under this Act, he shall give notice to the prosecutor and to the party accused of a time and place to be fixed by the Judge for appointing a Jury to serve at such trial.

Appointment of Jury.

VIII. At the time and place mentioned in the notice, the Judge, in the presence of the prosecutor and the person accused, shall read over the names which first occur in each of the said lists of those Merchants and Pilots who he has reason to believe are present in Calcutta and capable of attending as Jurors at the trial; and shall also propose the name of a Master of a merchant ship lying in the port of Calcutta, whom he deems qualified to serve on such Jury. If no objection be made and allowed, the persons so nominated shall be the Jury to serve at the trial. If the prosecutor or the party accused shall object to any of the persons named as Jurors, he shall assign the grounds of his objection, and such objection shall forthwith be decided by the Judge. If the objection be allowed, the Judge shall read from the said lists or propose (as the case may be) another name in the place of the one objected to, and the person so nominated shall serve on the Jury provided no objection to such person be made and allowed as aforesaid.

Day of trial to be fixed and summons to issue to Jurors. Penalty for non-attendance.

IX. When a Jury has been appointed under the last preceding Section, the Judge shall fix a day for the trial and shall summon by writing under his hand the persons so appointed to sit as a Jury. If any such person when duly summoned shall, without such excuse as the Judge shall allow to be sufficient, neglect or refuse to attend at the time appointed or to remain in attendance until the trial shall be completed, it shall be lawful for the said Judge to impose upon any such person a fine not exceeding Two Hundred Rupees for every such default; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the defaulter under a Warrant to be issued for that purpose by the Judge. Such warrant may be transmitted by the Judge to any Magistrate of Police for the town of Calcutta, and thereupon such Magistrate shall endorse the same, and shall cause it to be executed in the same manner as if the Warrant had been issued by such Magistrate.

Trial how to proceed if any of the Jurors do not attend.

X. If for any cause any of the persons summoned to attend as Jurors shall not be in attendance at the time fixed for the commencement of the trial, the trial may, with the consent of the prosecutor and the party accused, be held before the judge and such jurors as shall be in attendance. If such consent be not given, the place of the absent Juror shall be supplied by some other person selected by the Judge from the same profession or calling as the person originally summoned and who shall consent to serve, provided no objection to such person be made and allowed in manner aforesaid. If the parties or either of them do not consent that the trial shall be held before the Judge and such

Jurors as may be in attendance, and the place of the absent Juror cannot be supplied by a person consenting to serve, the trial shall be postponed to another day, and the judge shall either re-summon the same jury or appoint and summon another jury in the manner hereinbefore provided.

Register of Jurors who have served.

XI. The Judge shall register in a book the names of all Jurors mentioned in either of the said two lists who have attended and served on a trial held under this Act. A Juror who has served shall not be required again to serve, and his name shall be excluded in reading over the Jury lists, until all the persons named in the said lists who are present in Calcutta and capable of attending as Jurors shall have served.

Jurors to be sworn.

XII. Before the commencement of any trial under this Act, the persons summoned and attending as Jurors shall be sworn or affirmed by the Judge of the Court to give a true verdict according to the evidence.

Judge may summon witnesses to attend at a certain time and place. Examination of witnesses about to leave Calcutta.

XIII. It shall be lawful for the Judge of the said Court, at the instance of the prosecutor, or of the party accused, or of his own motion, by writing under his hand, to summon any person to attend as a witness at a time and place to be specifid in the summons, for the purpose of being examined at any trial before the said Court: or, if such person shall be about to depart from Calcutta, so as to be unable to attend at such trial without serious inconvenience, then to be examined before the Judge of the said Court before the day fixed for the trial; Provided always, that due notice of the time and place of such examination shall be given to the accused party; Provided also, that such witness may nevertheless be examinded at the trial if he shall be able to attend thereat, in which case his previous examination may also be read at the trial.

Two Provisoes.

Penalty for witnesses not attending or refusing to give evidence.

XIV. If any person who shall have been duly summoned to attend as a witness, shall, without sufficient excuse, neglect or refuse to attend, or attending shall refuse to give evidence or to answer any question which may be lawfully put to him, such person shall forfeit and pay such fine, not exceeding Five Hundred Rupees, as the Judge of the said Court shall order; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the person ordered to pay the same in the manner prescribed in Section IX of this Act.

Witnesses to be examined on oath, according to the rules in force in the Supreme Court.

XV. The evidence of every witness examined before the said Court shall be given on oath, affirmation, or otherwise, according to the rules in that behalf for the time being in force for the examination of witnesses in Her Majesty's Supreme Court of Judicature.

Verdict of Jurors.

XVI. Upon the completion of the trial, the Jurors shall give their verdict upon the charge, or, if there be more than one, upon each separate charge. The verdict shall be according to the opinion of the majority of Jurors. If the Jurors are equally divided, the Judge shall declare his opinion, and the verdict shall be according to the opinion of the Judge and the Jurors with whom he concurs.

Sentence of Court, if the accused be found guilty.

XVII. If by such verdict the accused person is found guilty of the charge or of any one or more of the charges preferred against him, the Judge of the Court shall sentence him to be dismissed from the said Pilot Service, or to have his license withdrawn or shall award such other punishment by loss of rank or pay, or by change of a license from a higher to a lower grade, or suspension from employment for a specified period, as to the Judge shall appear fit. The Lieutenant-Governor of Bengal, with the sanction of the Governor-General in Council, may prepare a Schedule of offences and punishments (such punishments being of the same nature as those hereinbefore mentioned) for the guidance of the said Court; and if such Schedule be prepared and sanctioned, and the charge proved before the said Court is an offence specified in such Schedule, the Judge of the said Court shall award such punishment as is prescribed for such offence in the said Schedule, and no other. If by such verdict as aforesaid the accused person is found not guilty of the charge or charges preferred against him, the Judge shall declare him acquitted of the same.

Schedule of offences and punishments to be prepared.

Acquittal.

No sentence to be final till approved by Government.

Government may remit sentence or mitigate punishment.

XVIII. The proceedings of the Court shall be sent by the Judge to the Superintendant of Marine for submission to the Lieutenant-Governor of Bengal; and no sentence of punishment pronounced by the Judge of the said Court shall be final, until it has been approved of by the said Lieutenant-Governor. The said Lieutenant-Governor may remit the whole or any part of such sentence, or may direct the substitution of any mitigated punishment in lieu of the punishment awarded by the said Court, as he shall think fit.

If verdict of Jurors be manifestly contrary to evidence, or trial be otherwise insufficient.

XIX. If it shall appear to the Judge of the said Court that the verdict of the Jurors is manifestly contrary to the evidence, or that the trial is otherwise insufficient, the Judge, instead of passing sentence on the accused person or declaring him acquitted, as the case may be, may certify the same to the Lieutenant-Governor of Bengal, and the said Lieutenant-Governor may either order a new trial before another Jury or acquit the accused person, as he shall think fit.

XX. It shall be lawful for the Lieutenant-Governor of Bengal to make such rules as he shall think proper, not inconsistent with the provisions of this Act, for conducting the proceedings and regulating the practice of the said Court.

Power of Government to make rules of practice.

XXI. Nothing contained in this Act shall be held to restrict the Marine Authorities or the Government from passing such orders as may be deemed proper upon any charge of breach of duty preferred against any person employed in the said Pilot Service, when it shall not be deemed necessary that such person should be brought to trial for such breach of duty under the provisions of this Act.

This Act not to restrict Marine Authorities or Government from passing orders upon a charge of breach of duty where a trial is not deemed necessary.

XXII. If any person licensed to act as Pilot, when duly charged with breach of duty as aforesaid, shall refuse to submit himself to trial under the provisions of this Act, the license of such person shall be withdrawn, and he shall be incapable of being again licensed to act as a Pilot at the said Presidency.

Withdrawal of license from licensed Pilot.

XXIII. The provisions of this Act shall extend to all persons employed in the Pilot Service at the said Presidency, and borne on the rolls of the Government establishment, whether such persons receive fixed salaries, on are remunerated by a portion of the pilotage charged on the vessels piloted by them, or in any other manner, and to all persons licensed to act as Pilots at the said Presidency.

Act applicable to persons in the Pilot service and to licensed Pilots.

ACT No. XIII OF 1859.

(Received the assent of the Governor-General on the 4th May 1859.)

1. *If a workman neglect to perform work, on account of which he has received an advance of money, complaint may be made to the Magistrate.*
2. *Magistrate may order re-payment of advance or performance of contract, at the employer's option. Penalty, if the workman fail to comply with the order.*
3. *Magistrate may require the workman to give security for due performance of order.*
4. *To what contracts the Act extends.*
5. *Act may be extended by Government.*

An Act to provide for the punishment of breaches of contract by Artificers, Workmen, and Laborers in certain cases.

WHEREAS much loss and inconvenience are sustained by manufacturers, tradesmen, and others in the several Presidency Towns of Calcutta, Madras, and Bombay, and in other places, from fraudulent breach of contract on the part of Artificers, Workmen, and Laborers who have received money in advance on account of work which they have contracted to perform; and whereas the remedy by suit in the Civil Courts for the recovery of damages is wholly insufficient, and it is just and proper that persons guilty of such fraudulent breach of contract should be subject to punishment; It is enacted as follows:—

I. When any Artificer, Workman, or Laborer shall have received from any Master or Employer resident or carrying on business in any Presidency Town, or in any station of the Settlement of Prince of Wales' Island, Singapore, and Malacca, or from any person acting on behalf of such Master or Employer, an advance of money on account of any work which he shall have contracted to perform, or to get performed by any other Artificers, Workmen, or Laborers, if such Artificer, Workman, or Laborer shall wilfully and without lawful or reasonable excuse neglect or refuse to perform or get performed such work according to the terms of his contract, such Master or Employer or any such person as aforesaid may complain to a Magistrate of Police, and the Magistrate shall thereupon issue a summons or a warrant, as he shall think proper, for bringing before him such Artificer, Workman, or Laborer, and shall hear and determine the case.

If a Workman neglect to perform work, on account of which he has received an advance of money complaint may be made to the Magistrate.

II. If it shall be proved to the satisfaction of the Magistrate, that such Artificer, Workman, or Laborer has received money in advance from the complainant on account of any work, and has wilfully and without lawful or reasonable excuse neglected or refused to perform or get performed, the same according to the terms of his contract, the Magistrate shall, at the option of the complainant, either order such Artificer, Workman, or Laborer to repay the money advanced, or such part thereof as may seem to the Magistrate just and proper, or order him

Magistrate may order repayment of advance or performance of contract, at the employer's option.

to perform, or get performed, such work according to the terms of his contract; and if such Artificer, Workman, or Laborer shall fail to comply with the said order, the Magistrate may sentence him to be imprisoned with hard labor for a term not exceeding three months, or if the order be for the repayment of a sum of money, for a term not exceeding three months, or until such sum of money shall be sooner repaid; Provided, that no such order for the repayment of any money shall, while the same remains unsatisfied, deprive the complainant of any Civil remedy by action or otherwise which he might have had but for this Act.

Proviso.

Workman to give security for fulfilment of contract.

III. When the Magistrate shall order any Artificer, Workman, or Laborer to perform or get performed any work according to the terms of his contract, he may also at the request of the complainant require such Artificer, Workman, or Laborer to enter into a recognizance with sufficient security for the due performance of the order; and in default of his entering into such recognizance or furnishing such security to the satisfaction of the Magistrate, may sentence him to be imprisoned with hard labor for a period not exceeding three months.

Definition of the word "contract."

IV. The word "contract," as used in this Act, shall extend to all contracts and agreements whether by deed, or written or verbal, and whether such contract be for a term certain, or for specified work, or otherwise.

This Act may be extended by the Supreme or Local Governments.

V. This Act may be extended by the Governor-General of India in Council, or by the Executive Government of any Presidency or place, to any place within the limits of their respective jurisdictions. In the event of this Act being so extended, the powers hereby vested in a Magistrate of Police shall be exercised by such Officer or Officers as shall be specially appointed by Government to exercise such powers.

ACT No. XIV. OF 1859.*

(Received the assent of the Governor General on the 5th May 1859.)

1. Limitation of suits.
2. Suits against trustees and their representatives for breach of trust, &c. Proviso.
3. Shorter periods of limitation, if prescribed by particular Acts, to prevail.
4. Revival of right to sue by admission in writing. Proviso.
5. Computation of period of limitation in suits to recover property purchased from depositaries, pawnees. or mortgagees. Proviso.
6. Computation of period of limitation in suits in Supreme Courts, by mortgagee to recover immoveable property mortgaged.
7. Computation of period of limitation in suits to avoid incumbrances or under-tenures in estates sold for arrears of Government Revenue.
8. Computation of period of limitation in suits between merchants for balances of accounts current.
9. Computation of period of limitation in case of concealed fraud.
10. Computation of period of limitation in suits where the cause of action is founded on fraud.
11. Computation of period of limitation in case of legal disability.
12. What persons to be deemed to be under legal disability.
13. Computation of period of limitation in case of absence of defendant.
14. Computation of period of limitation in case of suit prosecuted bonâ fide but in wrong Court.
15. Persons dispossessed of immoveable property, otherwise than by due course of law, may recover possession notwithstanding any title that may be set up Suit for dispossession to be brought within six months. Suit to establish title not to be affected.
16. Act not to interfere with equitable jurisdiction of Supreme Courts.
17. Act not to extend to public property, nor to suits for the recovery of public claims.
18. Act not to apply to suits now pending, nor to suits instituted within two years. Suits afterwards instituted to be governed by this Act.
19. Proceedings for enforcing judgments, &c., of Supreme Courts to be taken within twelve years. Proviso as to judgments now in force.

* Modified by Acts XI, 1861, and XIV, 1862.

20. Time for enforcing execution of judgment, &c., of a Civil Court not established by Royal Charter.

21. Preceding Section not to apply to judgments, &c., in force at the time of the passing of this Act.

22. Time for execution of a summary award of Civil Court or Revenue Authority.

23. Preceding Section not to apply to summary awards in force at the passing of this Act.

24. Operation of Act. Trial of pending suits, &c., in any Non-Regulation Province or place to which the Act is extended.

An Act to provide for the Limitation of Suits.

WHEREAS it is expedient to amend and consolidate the laws relating to the Limitation of Suits; It is enacted as follows :—

Limitation of suits.

I. No suit shall be maintained in any Court of Judicature within any part of the British territories in India in which this Act shall be in force, unless the same is instituted within the period of limitation hereinafter made applicable to a suit of that nature, any Law or Regulation to the contrary notwithstanding; and the periods of limitation, and the suits to which the same respectively shall be applicable, shall be the following, that is to say :—

Suits to enforce right of pre-emption.

1. To suits to enforce the right of pre-emption, whether the same is founded on law or general usage or on special contract, the period of one year, to be computed from the time at which the purchaser shall have taken possession under the sale impeached.

Suits for penalties, damages and wages; certain summary suits in Madras.

2. To suits for pecuniary penalties or forfeitures for the breach of any Law or Regulation; to suits for damages for injury to the person and personal property, or the reputation; to suits for damages for the infringement of copyright or of any exclusive privilege; to suits to recover the wages of servants, artizans, or laborers, the amount of tavern bills or bills for board and lodging or lodging only; and to summary suits before the Revenue authorities under Regulation V. 1822 of the Madras Code—the period of one year from the time the cause of action arose.

Suits to set aside sales.

3. To suits to set aside the sale of any property, moveable or immoveable, sold under an execution of a decree of any Civil Court not established by Royal Charter when such suit is maintainable; to suits to set aside the sale of any property, moveable or immoveable, for arrears of Government Revenue or other demand recoverable in like manner; to suits by a Putneedar or the proprietor of any other intermediate tenure saleable for current arrears of rent, or other person claiming under him, to set aside the sale of any Putnee Talook or such other tenure sold for current arrears of rent; to suits to set aside the sale of any property, moveable or immoveable, sold in pursuance of any decree or order of a Collector or other Officer of Revenue—the period of one year from the date at which such sale was confirmed, or would otherwise have become final and conclusive, if no such suit had been brought.

Suits to set aside certain proceedings for arrears of the Government Revenue.

4. To suits to set aside any attachment, lease, or transfer of any land or interest in land by the Revenue Anthorities for arrears of Government Revenue, or to recover any money paid under protest in satisfaction of any claim made by the Revenue Authorities on account of arrears of revenue or demands recoverable as arrears of revenue—one year from the date of such attachment, lease, or transfer, or of such payment as the case may be.

Suits to alter summary orders of Mofussil Civil Courts.

5. To suits to alter or set aside summary decisions and orders of any of the Civil Courts not established by Royal Charter, when such suit is maintainable —the period of one year from the date of the final decision, award, or order in the case.

Suits to contest certain awards.

6. To suits brought by any person to contest the justice of an award which shall have been made under Regulation VII. 1822, Regulation IX 1825, and Regulation IX. 1833 of the Bengal Code, or to recover any property comprised in such award—the period of three years from the date of the final award or order in the case.

Suits to set aside orders made under Acts XVI. 1828, and IV, 1840.

7. To suits by any party bound by any order respecting the possession of property made under Clause 2 Section I Act XVI of 1838, or Act IV of 1840, or any person claiming under such party, for the recovery of the property comprised in such order—the period of three years from the date of the final order in the case.

Suits to recover hire of animals, &c., and amounts of bills or rents.

8.* To suits to recover the hire of animals, vehicles, boats, or household furniture; or the amount of bills for any articles sold by retail; and to all suits

* Not to apply to suits instituted before the 1st January 1865 in which the cause of action arose before the passing of this Act. *See* Act XIV. of 1862.

for the rents of any buildings or lands (other than summary suits before the Revenue authorities under Regulation V. 1822 of the Madras Code)—the period of three years from the time the cause of action arose.

Suits for breach of contract, or for money lent or interest where there is no written contract.

9. The suits brought to recover money lent or interest or for the breach of any contract—the period of three years from the time when the debt became due or when the breach of contract in respect of which the suit is brought first took place, unless there is a written engagement to pay the money lent or interest, or a contract in writing, signed by the party to be bound ther eby or by his duly authorized agent.

Suits for breach of contract, or money lent, or interest, where there is a written engagement.

10. To suits brought to recover money lent or interest or for the breach of any contract, in cases in which there is a written engagement or contract, and in which such engagement or contract could have been registered by virtue of any Law or Regulation in force at the time and place of the execution thereof—the period of three years from the time when the debt became due or when the breach of contract in respect of which the action is brought first took place, unless such engagement or contract shall have been registered within six months from the date thereof.*

Suits upon matters of record or specialties, or for legacies.

11. To suits, in cases governed by English law, upon all debts and obligations of record and specialties ; and to suits for the recovery of any legacy—the period of twelve years from the time the cause of action arose.

Suits for immoveable property or any interest therein.

12. To suits for the recovery of immoveable property, or of any interest in immoveable property, to which no other provision of this Act applies—the period of twelve years from the time the cause of action arose.

Suits for maintenance or for right to share in joint family property.

13. To suits to enforce the right to share in any property moveable or immoveable on the ground that it is joint family property ; and to suits for the recovery of maintenance, where the right to receive such maintenance is a charge on the inheritance of any estate—the period of twelve years from the death of the persons from whom the property alleged to be joint is said to have descended, or on whose estate the maintenance is alleged to be a charge ; or from the date of the last payment to the plaintiff or any person through whom he claims, by the person in the possession or management of such property or estate on account of such alleged share, or on account of such maintenance as the case may be.

Suits for resumption or assessment.

14. To suits by the proprietor of any land or by any person claiming under him, for the resumption or assessment of any Lakheraj or rent-free land—the period of twelve years from the time when the little of the person claiming the right to resume and assess such lands, or of some person under whom he claims, first accrued. Provided that, in estates permanently settled, no such suit, although brought within twelve years from the time when the title of such person first accrued, shall be maintained, if it is shown that the land has been held Lakheraj or rent-free from the period of the permanent settlement.

Proviso.

Suits against depositaries, pawnees and mortgagees.

15. To suits against a depositary, pawnee or mortgagee of any property moveable or immoveable for the recovery of the same—a period of thirty years if the property be moveable, and sixty years if it be immoveable, from the time of the deposit, pawn, or mortgage ; or if in the mean time an acknowledgment of the title of the depositor, pawner, or mortgagor, or of his right of redemption, shall have been given in writing signed by the depositary, pawnee or mortgagee or some person claiming under him, from the date of such acknowledgment in writing.

Suits not provided for otherwise.

16. To all suits for which no other limitation is hereby expressly provided—the period of six years from the time the cause of action arose.

Suits against trustees and their representatives for breach of trust, &c.

II. No suit against a trustee in his lifetime, and no suits against his representatives for the purpose of following in their hands the specific property which is the subject of the trust, shall be barred by any length of time ; but no suit to make good the loss occasioned by a breach of trust out of the general estate of a deceased trustee shall be maintained in any of the said Courts, unless the same is instituted within the proper period of limitation according to the last preceding Section, to be computed from the decease of such trustee ; Provided, that nothing herein contained shall prevent a co-trustee from enforcing, against the estate of a deceased trustee, any claim for contribution, if he shall institute a suit for that purpose within six years after such right of contribution shall have arisen.

Proviso.

Shorter periods of limitation, if prescribed by particular Acts, to prevail.

III. When, by any law now or hereafter to be in force, a shorter period of limitation than that prescribed by this Act is specially prescribed for the institution of a particular suit, such shorter limitation shall be applied notwithstanding this Act.

Revival of rigt to sue by admission in writing.

IV. If, in respect of any legacy or debt, the person who, but for the law of limitation, would be liable to pay the same, shall have admitted that such debt or legacy or any part thereof is due, by an acknowledgment in writing signed by

* See Act XX. of 1866.

him, a new period of limitation, according to the nature of the original liability, shall be computed from the date of such admission; Provided that, if more than one person be liable, none of them shall become chargeable by reason only of a written acknowledgment signed by another of them.

Proviso.

V. In suits for the recovery from the purchaser or any person claiming under him of any property purchased *bonâ fide* and for valuable consideration from a trustee, depositary, pawnee, or mortgagee, the cause of action shall be deemed to have arisen at the date of the purchase. Provided that, in the case of purchase from a depositary, pawnee, or mortgagee, no such suit shall be maintained unless brought within the time limited by Clause 15 Section I.

Suits to recover property purchased from depositaries, pawnees, or mortgagees. Proviso.

VI. In suits in the Courts established by Royal Charter by a mortgagee to recover from the mortgagor the possession of the immoveable property mortgaged, the cause of action shall be deemed to have arisen from the latest date at which any portion of principal money or interest was paid on account of such mortgage debt.

Suits in Supreme Courts, by mortgagee to recover immoveable property mortgaged.

VII. In suits to avoid incumbrances or under-tenures in an estate sold for arrears of Government Revenue due from such estate, or in a Putnee Talook or other saleable tenure sold for arrears of rent which by virtue of such sale becomes freed from incumbrances and under-tenures, the cause of action shall be deemed to have arisen at the time when the sale of the estate, talook, or tenure became final and conclusive.

Suits to avoid incumbrances or under-tenures in estates sold for arrears of Government Revenue.

VIII. In suits for balances of accounts current between merchants and traders who have had mutual dealings, the cause of action shall be deemed to have arisen at, and the period of limitation shall be computed from, the close of the year in the accounts of which there is the last item admitted or proved indicating the continuance of mutual dealings; such year to be reckoned as the same is reckoned in the accounts.

Suits between merchants for balances of accounts current.

IX, If any person entitled to a right of action shall by means of fraud have been kept from the knowledge of his having such right or of the title upon which it is founded, or if any document necessary for establishing such right shall have been fraudulently concealed, the time limited for commencing the action against the person guilty of the fraud or accessary thereto, or against any person claiming through him otherwise than in good faith and for a valuable consideration, shall be reckoned from the time when the fraud first became known to the person injuriously affected by it, or when he first had the means of producing or compelling the production of the concealed document.

Cases of concealed fraud.

X. In suits in which the cause of action is founded on fraud, the cause of action shall be deemed to have first arisen at the time at which such fraud shall have been first known by the party wronged.

Suits where the cause of action is founded on fraud.

XI. If, at the time when the right to bring an action first accrues, the person to whom the right accrues is under a legal disability, the action may be brought by such person or his representative within the same time after the disability shall have ceased as would otherwise have been allowed from the time when the cause of action accrued, unless such time shall exceed the period of three years, in which case the suit shall be commenced within three years from the time when the disability ceased; but if, at the time when the cause of action accrues to any person, he is not under a legal disability, no time shall be allowed on account of any subsequent disability of such person or of the legal disability of any person claiming through him.

Cases of legal disablity.

XII. The following persons shall be deemed to be under legal disability within the meaning of the last preceding Section—married women in cases to be decided by English law, minors, idiots, and lunatics.

What persons to be deemed under legal disability.

XIII. In computing any period of limitation prescribed by this Act, the time during which the defendant shall have been absent out of the British territories in India shall be excluded from such computation, unless service of a summons to appear and answer in the suit can, during the absence of such defendant, be made in any mode prescribed by law.

Computation in case of absence of defendant from India.

XIV. In computing any period of limitation prescribed by this Act, the time during which the claimant, or any person under whom he claims, shall have been engaged in prosecuting a suit upon the same cause of action against the same defendant, or some person whom he represents, *bonâ fide* and with due diligence, in any Court of Judicature which, from defect of jurisdiction or other cause, shall have been unable to decide upon it, or shall have passed a decision which, on appeal, shall have been annulled for any such cause, including the time during which such appeal, if any has been pending, shall be excluded from such computation.

Suit prosecuted bona fide, but in wrong Court.

Suit for dispossession of immoveable property otherwise than by due course of law, to be brought within six months. Suit to establish title not to be affected.

XV. If any person shall without his consent have been dispossessed of any immoveable property otherwise than by due course of law, such person or any person claiming through him shall, in a suit brought to recover possession of such property, be entitled to recover possession thereof notwithstanding any other title that may be set up in such suit, provided that the suit be commenced within six months from the time of such dispossession. But nothing in this Section shall bar the person from whom such possession shall have been so recovered, or any other person, instituting a suit to establish his title to such property and to recover possession thereof within the period limited by this Act.

Act not to interfere with equitable jurisdiction of Supreme Courts.

XVI. Nothing in this Act contained shall be deemed to interfere with any rule or jurisdiction of any Court established by Royal Charter in refusing equitable relief, on the ground of acquiescence or otherwise, to any person whose right to bring a suit may not be barred by virtue of this Act.

Act not to extend to public property, nor to suits for the recovery of public claims.

XVII. This Act shall not extend to any public property or right, nor to any suits for the recovery of the public revenue or for any public claim whatever, but such suits shall continue to be governed by the laws or rules of limitation now in force

Act not to apply to suits now pending or to suits instituted within two years.

XVIII. All suits that may be now pending, or that shall be instituted within the period of two years from the date of the passing of this Act, shall be tried and determined as if this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted after the expiration of the said period shall be governed by this Act and no other law of limitation, any Statute Act or Regulation now in in force notwithstanding.

Proceedings for enforcing judgments, &c., of Supreme Courts to be taken within twelve years. Proviso, as to judgments now in force.

XIX. No proceeding shall be taken to enforce any judgment, decree, or order of any Court established by Royal Charter, but within twelve years next after a present right to enforce the same shall have accrued to some persons capable of releasing the same; unless in the meantime such judgment, decree, or order shall have been duly revived, or some part of the principal money secured by such judgment, decree, or order or some interest thereon shall have been paid, or some acknowledgment of the right thereto shall have been given in writing signed by the person by whom the same shall be payable or his agent to the person entitled thereto or his agent; and in any such case no proceeding shall be brought to enforce the said judgment, decree, or order, but within twelve years after such revivor, payment, or acknowledgment, or the latest of such revivors, payments, or acknowledgments as the case may be: Provided that, for three years next after the passing of this Act, every judgment, decree, and order which may be in force at the date of the passing of this Act shall be governed by the law now in force, anything therein contained notwithstanding.

Time for enforcing execution of judgment, &c., of a Civil Court in the Mofussil.

XX. No process of execution shall issue from any Court not established by Royal Charter to enforce any judgment, decree, or order of such Court, unless some proceeding shall have been taken to enforce such judgment, decree, or order or to keep the same in force within three years next preceding the application for such execution.

Preceding Section not to apply to judgments, &c., already in force.

XXI. Nothing in the preceding Section shall apply to any judgment, decree or order in force at the time of the passing of this Act, but process of execution may be issued, either within the time now limited by law for issuing process of execution thereon, or within three years next after the passing of this Act, whichever shall first expire.

Time for execution of a summary award of Civil Court or Revenue Authority.

XXII. No process of execution shall issue to enforce any summary decision or award of any of the Civil Courts not established by Royal Charter or of any Revenue Authority, unless some proceeding shall have been taken to enforce such decision or award or to keep the same in force within one year next preceding the application for such execution.

Preceding Section not to apply to summary awards already in force.

XXIII. Nothing in the preceding Section shall apply to any summary decision or award in force at the time of the passing of this Act, but process of execution may be issued either within the time now limited by law for issuing process of execution thereon, or within two years next after the passing of this Act, whichever shall first expire.

Operation of Act. Trial of pending suits, &c., in any Non-Regulation Province or place to which the Act is extended.

XXIV. This Act shall take effect throughout the Presidencies of Bengal, Madras, and Bombay, including the Presidency Towns and the Straits' Settlement; but shall not take effect in any Non-Regulation Province or place until the same shall be extended thereto by public notification by the Governor-General in Council or by the local Government to which such Province or place is subordinate. Whenever this Act shall be extended to any Non-Regulation Province or place by the Governer-General in Council or by the local Government to which such Province or place is subordinate, all suits which within such Province or place shall be pending at the date of such notification or shall be instituted within the period of two years from the date thereof, shall be tried and determined as if

this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted within such Province or place after the expiration of the said period, shall be governed by this Act and by no other law of limitation, any Statute, Act or Regulation now in force notwithstanding.

ACT No. XV. OF 1859.

(Received the assent of the Governor-General on the 17th May 1859.)

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1. Inventor may petition for leave to file specification. Form, &c., of petition.

2. Order to file specification.

3. Power to refer petition for enquiry and report.

4. Petitioner entitled to exclusive privilege for 14 years from the time of filing specification. Extension of term of exclusive privilege.

5. Order to file specification may be made subject to conditions.

6. Specification to be in writing and to describe the invention.

7. Petition and specification to be left with Secretary to Government. Petition, &c., to be accompanied by declaration. Date of delivery to be endorsed on petition.

8. False statement in declaration punishable as perjury.

9. Specification not to be filed before payment of fees.

10. Copies of specification to be delivered and distributed. To be open to inspection.

11. Book for the registry of petitions, specifications, &c.

12. Inspection of registry book. Certified copy of entry to be given.

13. Certified copy to be primâ facie evidence.

14. In what cases petitioner may apply for leave to file amended specification. Effect of amended specification.

15. No person entitled to exclusive privilege in any of the following cases. If invention of no utility. If invention not new. If petitioner is not inventor. If specification does not describe the invention. If petition contain wilful or fraudulent mis-statement.

16. Exclusive privilege to cease, if Government declare it mischievous, &c., to the public. Or if Government, upon breach of condition proved, declare that it shall cease.

17. Importer of invention, if not the actual inventor, not to be deemed inventor.

18. Foreign inventor.

19. An invention not publicly used or known in the United Kingdom or in India before the application for leave to file a specification, to be deemed a new invention within this Act. Knowledge of invention fraudulently acquired. Proviso. Public use by inventor.

20. Inventor, having obtained English Letters Patent, to petition within 12 months from the passing of this Act or from the date of the Letters Patent. Invention, if not publicly known or used in India at the time of applying for such Letters Patent, to be deemed new. What to be stated in such Petition. Duration of exclusive privilege.

21. Saving of rights of persons who used invention before 7th of July 1855.

22. Action for infringement.

23. Defect in specification or petition, or want of novelty in invention, &c., no defence to action for infringement. The actual use of an invention in India or the United Kingdom before date of petition, a defence to such action.

24. Application to Supreme Courts to declare exclusive privilege not to have been acquired on following grounds—Invention of no utility. Invention not new. Petitioner not the inventor. Invention not described is specification. Fraud in petition or specification. Fraudulent mis-statement in petition or specification. Insufficient description of part of invention in specification.

25. Like application as to part of an invention.

26. Application by the Advocate General on breach of special condition.

27. Service of proceedings on all persons interested.

28. Supreme Court may direct issue for trial to other Courts. New trial.

29. Judgment. Costs.

30. Amendment of specification by Court. Proviso.

31. Mis-statement in the petition, if not fraudulent, not to defeat the privilege.

32. Entry in registry book of judgment, &c., declaring privilege not to have been acquired.

33. In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.

34. Particulars to be delivered.

35. Service of proceedings.

36. Act VI of 1856 *to have effect in respect of certain specifications filed and acts done.*

37. Stamps on petition.

38. Interpretation. Number. Gender. "Invention." "Manufacture." "Printed." "Inventor" and "actual inventor." "Assigns." "India." "Governor-General in Council." "Secretary to the Government of India." Her Majesty's Courts of Judicature." "Courts of Judicature."

An Act for granting exclusive privileges to Inventors.

WHEREAS Act VI of 1856, entitled "An Act for granting exclusive privileges to Inventors," was passed by the Legislative Council of India without the sanction of Her Majesty to the passing thereof having been previously obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India:" and whereas, Her Majesty's Law Officers having given it as their opinion that the Legislative Council of India was not competent to pass Act VI of 1856 without previously obtaining the sanction of the Crown, and the Court of Directors of the East India Company having in pursuance of the power vested in them by law disallowed Act VI of 1856, and having signified to the Governor-General of India in Council their disallowance thereof, the said Act was repealed by Act IX of 1857; and whereas it is expedient, for the encouragement of Inventors of new manufactures, that certain exclusive privileges in their inventions should be granted to them in India, and that exclusive privileges obtained under the said Act should be protected: It is enacted as follows (The sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of the said Statute):—

Inventor may petition for leave to file specification. Form &c., of petition.

I. The inventor of any new manufacture may petition the Governor-General of India in Council for leave to file a specification thereof. Every such petition shall be in writing in the form or to the effect mentioned in the Schedule hereunto annexed, and shall be signed by the petitioner, or in case the petitioner shall be absent from India, by an authorized agent, and shall state the name, addition, and place of residence of the petitioner, and the nature of the invention.

Order to file specification.

II. Upon such petition, the Governor-General of India in Council may make an order authorizing the petitioner to file a specification of the invention.

Power to refer petition for enquiry and report.

III. Before making such order, the Governor-General of India in Council may refer the petition to any person or persons for enquiry and report, and such person or persons shall be entitled to a resonable fee for such enquiry and report to be paid by the petitioner; the amount of such fee, in case of dispute, to be settled by a Judge of one of Her Majesty's Courts of Judicature in a summary manner.

Petitioner entitled to exclusive privilege for 14 years from the time of filing specification. Extension of term.

IV. If, within the space of six calendar months from the date of such order, the petitioner cause a specification of his invention to be filed in manner hereinafter mentioned, the petitioner, his executors, administrators, or assigns, shall be entitled to the sole and exclusive privilege of making, selling, and using the said invention in India, and of authorizing others so to do, for the term of fourteen years from the time of filing such specification, and for such further term (if any), not exceeding fourteen years from the expiration of the first fourteen years, as the Governor-General of India in Council may think fit to direct, upon petition to be presented by such inventor, at any period not more than one year, and not less than six calendar months, before the expiration of the exclusive privilege hereby granted.

Order may be made subject to conditions.

V. An order authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to any such conditions and restrictions as the Governor-General of India in Council may think expedient.

Specification to be in writing and to describe the invention.

VI. Every specification of an invention filed under this Act shall be in writing, and shall be signed by the petitioner, and shall particularly describe and ascertain the nature of the said invention and in what manner the same is to be performed.

VII. Every petition for leave to file a specification, and every specification filed under this Act, shall be left with the Secretary to the Government of India in the Home Department, and every petition and specification shall be accompanied by a declaration in writing signed by the petitioner in the forms or to the effect mentioned in the Schedule hereunto annexed; and, if the inventor be absent from India, the petition and specification shall also be accompanied by a declaration signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration purporting to be the declaration of the inventor was signed by him, and that the contents thereof are true, which declaration shall be in the form or to the effect mentioned in the said Schedule. The date of the delivery of every such petition and specification shall be endorsed on the same respectively, and shall also be recorded at the office of the said Secretary.

Petition and specification to be left with Secretary to Government, accompanied by a declaration. Date of delivery to be endorsed.

VIII. If any person, who shall make a declaration under this Act, shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

False statement in declaration punishable as perjury.

IX. No specification shall be filed until the petitioner shall have paid all fees payable under this Act, including the fees (if any) of the person or persons to whom the petition shall have been referred for enquiry and report.

Specification not to be filed before payment of fees.

X. At the time of delivering the specification for the purpose of being filed the petitioner shall cause to be delivered to the said Secretary five copies thereof, of which

One shall be sent to and filed by one of the Secretaries to the Government of Bengal;

One shall be sent to and filed by one of the Secretaries to the Governmet of Fort St. George;

One shall be sent to and filed by one of the Secretaries to the Government of Bombay; and

One shall be sent to and filed by one of the Secretaries to the Government of the North-Western Provinces.

A copy of such specification shall be open at all reasonable times at the Office of each of the said Secretaries to public inspection upon payment of a fee of one Rupee.

Copies of specification to be delivered and distributed. To be open to inspection.

XI. A book shall be kept in the office of the said Secretary to the Government of India, wherein shall be entered and recorded every such petition and specification and every order made upon such petition or relating to the invention therein mentioned. Every specification shall be numbered according to the order in which it is entered in such book; and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention, and to every petition, memorandum or amended specification which shall be filed under the provisions of Section XIV.

Book for the registry of petitions, specifications, &c.

XII. Such book, or a copy thereof, shall be open at all convenient times for the inspection of any person upon payment of a fee of one Rupee; and the said Secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

Inspection of registry book. Certified copy of entry to be given.

XIII. Every such certified copy shall be *primâ facie* evidence of the document of which it purports to be a copy.

Certified copy to be prima facie evidence.

XIV. If, after the filing of the specification, the petitioner shall have reason to believe that through mistake or inadvertence he has erroneously made any misstatement in his petition or specification, or included therein something which at the date of his petition was not new or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor-General in Council for leave to file a memorandum pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged invention, or, in case of any defect or insufficiency of the specification, for leave to file an amended specification. The petition shall state how the error, defect, or insufficiency occurred and that it was not fraudulently intended, and shall be accompanied by a declaration in writing signed by the petitioner, and, if he be absent from India, by his agent, stating that the contents of such petition are true to the best of his knowledge and belief. Upon such petition the Governor-General in Council may make an order allowing such memorandum or amended specification to be filed. All the provisions of Sections X, XI, XII, and XIII, applicable to specifications, shall be applicable to the petitions, orders, and memoranda or amended specifications referred to in this Section. An amended specification filed under the provisions of this Act shall, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such amended specification, have the same effect as if it had been the specification first filed, provided that

In what cases petitioner may apply for leave to file amended specification. Effect of amended specification.

nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

No person entitled to exclusive privilege in certain cases.

XV. No person shall be entitled to any exclusive privilege under the provisions of this Act—

If the invention is of no utility, or

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention within the meaning of this Act, or

If the petitioner is not the inventor thereof, or

If the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention and in what manner the same is to be performed, or

If the original or any subsequent petition relating to the invention, or the original or any amended specification, contain a wilful or fraudulent mis-statement.

Exclusive privilege when to cease.

XVI. Every exclusive privilege under this Act shall cease, if the Governor-General of India in Council shall declare that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition on which the petitioner shall be authorized to file a specification, or upon which the term of the exclusive privilege shall be extended, shall be proved to the satisfaction of any of Her Majesty's Courts of Judicature, and if the Governor-General of India in Council shall thereupon declare that such exclusive privilege shall cease.

Importer, if not the actual inventor, not to be deemed inventor.

XVII. The Importer into India of a new invention shall not be deemed an inventor within the meaning of this Act, unless he be the actual inventor.

Foreign inventor.

XVIII. A foreigner, whether resident abroad or not, may petition for leave to file specification under this Act.

What to be deemed a new invention. Knowledge of invention fraudulently acquired. Proviso. Public use by inventor.

XIX. An invention shall be deemed a new invention within the meaning of this Act, if it shall not, before the time of applying for leave to file the specification, have been publicly used in India or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in any part of India or of the United Kingdom by means of a publication either printed or written or partly printed and partly written. The public use or knowledge of an invention, prior to the application for leave to file a specification, shall not be deemed a public use or knowledge within the meaning of this Section, if the knowledge shall have been obtained surreptitiously or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor or in breach of confidence; Provided the inventor shall, within six calendar months after the commencement of such public use, apply for leave to file his specification, and shall not previously have acquiesced in such public use; Provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing for a period not exceeding one year prior to the date of his petition, shall not be deemed a public use thereof within the meaning of this Act.

Inventor having obtained English Letters Patent, to petition within 12 months from the date thereof. Invention, if not publicly known or used in India at the time of applying for such Letters Patent, to be deemed new. Duration of exclusive privilege.

XX. If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Act, shall have obtained Her Majesty's Letters Patent for the exclusive use of such invention in the United Kingdom or any part thereof shall, within twelve calendar months from the passing of this Act, or within twelve calendar months from the date of such Letters Patent, petition the Governor-General of India in Council for leave to file a specification of such invention (which petition shall be in writing in the form or to the effect mentioned in the Schedule), the invention shall be deemed a new invention within the meaning of this Act, if it was not publicly known or used in India at or before the date of the petition for *such Letters Patent*, notwithstanding it may have been publicly known or used in some part of the United Kingdom or in India before the time of his petitioning, under this Act, for leave to file the specification; Provided the petition for leave to file the specification shall state that such Letters Patent have been granted, and shall also state the date thereof and the term during which the same are to continue in force. Provided also that an exclusive privilege obtained under the provisions of this Act, by an inventor who has obtained Her Majesty's Letters Patent for the exclusive use of such invention, shall cease to have effect, if such Letters Patent be revoked or cancelled; and that no such exclusive privilege shall extend beyond the term granted by such Letters Patent unless the same shall be renewed, in which case the exclusive privilege may be renewed under this Act for the extended term or any part thereof.

Saving of rights of persons who used invention before 7th July 1855.

XXI. No exclusive privilege obtained under this Act shall entitle the owner of such privilege to exclude any person from using the invention who, prior to the 7th day of July 1855, used the same in India.

XXII. An action may be maintained by an inventor against any person who, during the continuance of any exclusive privilege granted by this Act, shall, without the license of the said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same. Provided that no such action shall be maintained in any Court other than the principal Court of original jurisdiction in Civil cases within the local limits of whose jurisdiction the cause of action shall accrue or the defendant shall reside as a fixed inhabitant.

Action for infringement of exclusive privilege.

Proviso.

XXIII. No such action shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor, or has obtained a right from him to use the invention, either wholly or in part. Any such action may be defended upon the ground that the invention was not new, if the person making the defence, or some person through whom he claims, shall, before the date of the petition for leave to file the specification, have publicly or actually used in India or in some part of the United Kingdom, the invention, or that part of it of which the infringement shall be proved; but not otherwise.

Defect in specification or petition, or want of novelty in invention &c., no defence to action for infringement. The actual use of an invention in India or the United Kingdom before date of petition, a defence to such action.

XXIV. It shall be lawful for any person to apply by motion to any of Her Majesty's Courts of Judicature for a rule to show cause, why the Court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this Act by reason of all or any of the objections following (to be specified in the rule), that is to say—

That the said invention is of no utility, or

That the said invention was not, at the time of presenting the petition for leave to file the specification, a new invention within the meaning of this Act, or

That the petitioner was not the inventor thereof, or

That the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention, or in what manner the same is to be performed, or

That the petitioner has knowingly or fraudulently included in the petition or specification or amended specification, as part of his invention, something which was not knew or whereof he was not the inventor, or

That the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or

That some part of the invention, or the manner in which that part is to be performed as described in the spicification filed or the amended specification, is not thereby sufficiently described and ascertained, and that such defect or insufficiency was fraudulent and is injurious to the public.

Application may be made to Supreme Courts to declare exclusive privilege not to have been acquired on certain specified grounds.

XXV. Any person may, in like manner, apply to any of Her Majesty's Courts of Judicature for a rule to show cause, why the Court should not declare that an exclusive privilege has not been acquired under the provisions of this Act in respect of any part of the invention, to be specified in the rule, by reason of all or any of the objections following (to be specified in the rule) that is to say—

Like application as to part of an invention.

That such part of the invention is wholly distinct from the other part thereof and is of no utility, or

That such part of the invention was not, at the date of the petition for leave to file the specification, a new invention within the meaning of this Act, or

That the petitioner was not the inventor of that part of the invention, or

That that part of the invention, and the manner in which it is to be performed, is not sufficiently described and ascertained in the specification filed or the amended specification, and that such defect or insufficiency is injurious to the public.

XXVI. It shall be lawful for the Advocate General at any of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, or any other person, by order of the Governor-General in Council, to apply to any of the said Courts of Judicature for a rule calling upon the petitioner, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor-General in Council under the power hereinbefore reserved may, in the judgment of the said Governor-General in Council, depend, should not be tried in the form of an issue directed by the said Court; and if the rule be made absolute, the Court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and certify the result of such trial to the Governor-General

Application by Advocate General on breach of special condition.

in Council. The Costs of such trial, and also the costs of any proceedings in any of the said Courts of Judicature under the provisions of this Act, shall be in the discretion of the Court.

Notice of proceedings to be served on all persons interested.

XXVII. Notice of any rule obtained or proceeding taken under either of the last three preceding Sections shall be served on all persons appearing to be proprietors, or to have shares or interests in the exclusive privilege under the provisions of Section XXXV of this Act, and it shall not be necessary to serve such notice on any other persons.

Supreme Court may direct issue for trial to other Courts.

XXVIII. Any of the said Courts of Judicature, if it think fit, may direct an issue for the trial, before the same Court or any other Court of Judicature or any principal Court of original jurisdiction in Civil cases, of any question of fact arising upon an application under Sections XXIV, XXV, or XXVI of this Act, and such issue shall be tried accordingly in a summary manner, and, if the issue be directed to another Court, the finding shall be certified by the Court before which the same was tried, to the Court directing the issue. If the issue be directed to any Court of Judicature, the Court by which the issue is tried may, before the finding is certified, direct a new trial of such issue according to the usual course and practice of such Court. If the issue be directed to any Court other than a Court of Judicature, the finding shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge, shall be transmitted, together with any remarks he may think fit to make thereon, to the Court by which the issue was directed; and such Court may either act upon the decision of the Court which tried the issue, or direct a new trial if it shall appear necessary.

New trial.

Judgment Costs.

XXIX. If it shall appear to any of the said Courts of Judicature at the hearing of any application under the provisions of Sections XXIV or XXV of this Act, that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall give judgment accordingly, and shall make such order as to the costs of and consequent upon the application as it may think just: and thereupon the petitioner, his executors, administrators, and assigns shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

Amendment of specification of Court.

XXX. If the Court, at the hearing of any such application as last aforesaid, shall think that the petitioner has, in the description of his invention in the petition or specification or amended specification (if any,) included something which at the date of the petition was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the Court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by such error, defect, or insufficiency, or if the Court shall think that the error, defect, or insufficiency can be amended without injury to the public, they may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his executors, administrators, or assigns shall, within the time limited by the said Court for the purpose, file a specification amended according to such order. Provided, that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

Proviso.

Mis-statement, if not fraudulent, not to defeat the privilege.

XXXI. An exclusive privilege shall no be defeated upon the ground that the petition contains a mis-statement, unless such mis-statement was wilful or fraudulent.

Judgment, etc., declaring privilege not to have been acquired, to be entered in registry book.

XXXII. Whenever it shall be adjudged by any of the said Courts of Judicature that an exclusive privilege as to the whole or any part of an invention has not been acquired, the said Secretary to the Government of India shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book hereinbefore directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.

XXXIII. If, upon proceedings instituted within two years from the date of a petition to file a specification, the actual inventor shall prove, to the satisfaction of the principal Court having jurisdiction in Civil cases within the local limits of whose jurisdiction the defendant shall reside as a fixed inhabitant, that the petitioner was not the actual inventor, and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived such knowledge, the Court may compel the petitioner to assign to the actual inventor any exclusive privilege obtained under this Act, and to account for and pay over the profits thereof.

XXXIV. In any action for the infringement of such exclusive privilege, the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action ; and the defendant shall deliver a written statement of the particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to any of the said Courts of Judicature under Sections XXIV, XXV, or XXVI of this Act, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any such action or issue, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such exclusive privilege, which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used shall be stated in such particulars. Provided always, that it shall be lawful for any Court in which the action or proceeding is pending, or in which the issue is tried, to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

Particulars to be delivered.

Proviso.

XXXV. A book shall be kept in the office of the Secretary to the Government of India in the Home Department (such book to be open to inspection without fee) wherein every person filing a specification under this Act, or any person to whom the exclusive privilege may be assigned, shall cause to be stated some place in India, where service of any rule or proceedings for the purpose of cancelling or revoking his exclusive privilege may be made, and shall cause a reference to such entry to be made in the margin of the entry of the specification, and may from time to time cause any other place in India to be substituted by a similar entry and reference. All such rules and proceedings as aforesaid shall be deemed sufficiently served if a copy thereof be left at the place entered in such book, or (if any other place be substituted for the same by entry in the said book) at the place last substituted, by delivering the same to any person resident at or in charge of such place : or, if there be no person resident at or in charge of such place, or if such place be not within the local limits of the jurisdiction of the Court, by causing such rule or proceeding to be sent by Post by a registered letter directed to such person at such place ; and if any such person shall neglect to make or cause to be made such entry, then service of such rule or proceeding may be effected by affixing a copy thereof to some conspicuous part of the Court-house, or in such other manner as the Court may direct.

Service of proceedings.

XXXVI. Act VI of 1856 shall be of the same force and effect in respect to every petition and specification filed under the provisions thereof before the Act was repealed, and in regard to all proceedings consequent thereon or in relation thereto, and for the purpose of every thing done under that Act while it continued in force, as if previously to the passing of the said Act the sanction of Her Majesty to the passing thereof had been obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of Her Majesty, entitled " An Act to provide for the Government of India," and as if the said Act had not been repealed ; and the term of every exclusive privilege obtained under the said Act is hereby extended, and shall continue until the expiration of fourteen years from the time of the passing of this Act. No exclusive privilege obtained under the said Act by an importer, not being the actual inventor, shall cease to have effect by virtue of the provisions of Section XVI of the said Act, if the invention be put in practice in India within the period of two years from the time of the passing of this Act.

Act VI of 1856 to have effect in respect of certain specifications filed and acts done.

XXXVII. Repealed by Act XVIII. of 1869.

XXXVIII. In the construction of this Act, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The word "invention" shall include an improvement.

The words " manufacture" shall be deemed to include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture.

The word " printed" shall include " lithographed."

The words " inventor" and " actual inventor " shall include the executors, administrators, or assigns of an inventor or actual inventor as the case may be.

The word " assigns " shall include grantees of the sole use or benefit in India of an invention, or of the sole use of an exclusive privilege for a limited time.

Interpretation Number. Gender "Invention" "Manufacture." "Printed." Inventor" and "actual inventor." "Assigns." "India." "Governor-General in Council." "Secretary to the Government of India." "Her Majesty's Courts of Judicature." "Courts of judicature.

The word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India."

The words "Governor-General in Council" shall include the "President in Council."

The words "Secretary to the Government of India" shall include any Under-Secretary to the said Government.

The expressions "Her Majesty's Courts of Judicature" and "Courts of Judicature" shall mean the Courts established by Royal Charter.

SCHEDULE OF FORMS

FORM OF PETITION—(*see Section 1.*)

TO THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

The petition of (*here insert name, addition, and place of residence*) for leave to file a specification under Act No. XV of 1859.

SHEWETH,

That your petitioner is in possession of an invention for (*state the title of the invention*) which invention he believes will be of public utility; that he is the inventor thereof (*or, as the case may be, the assignee or the executor or administrator of the inventor*); and that the same is not publicly known or used in India, or in any part of the United Kingdom of Great Britain and Ireland, to the best of his knowledge and belief.

The following is a description of the invention (*here describe it*).

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV of 1859.

And your petitioner, &c.

(Signed)———

The day of

FORM OF DECLARATION TO ACCOMPANY PETITION—(*see Section VII.*

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for (*state the title of the invention as in the petition*); that I believe the said invention will be of public utility; that I am the inventor thereof (*or, as the case may be, the assignee or executor or administrator of the inventor*) and that the same is not publicly known or used in India, or in any part of the United Kingdom of Great Britain and Ireland, to the best of my knowledge and belief; and that, to the best of my knowledge and belief my said invention is truly described in my petition for leave to file a specification thereof.

The day of

(Signed)———

FORM OF DECLARATION TO ACCOMPANY SPECIFICATION—(*see Section VII.*)

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for (*state the nature of the invention,*) which invention I believe will be of public utility; that I am the inventor thereof (*or, as the case may be, the assignee or executor or administrator of the inventor*) and that the same is not publicly known or used in India, or in any part of the United Kingdom of Great Britain and Ireland, to the best of my knowledge and belief, and that to the best of my belief, the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention and in what manner the same is to be performed.

The day of

(Signed)———

FORM OF DECLARATION BY AN AGENT WHERE AN INVENTOR IS ABSENT FROM INDIA—(*see Section VII.*)

I of do solemnly and sincerely declare that I have been appointed by the said his agent for the purpose of ; and I verily believe that the declaration purporting to be the declaration of the said

marked ( ) was signed by him, and that the contents thereof are true.

The day of

(Signed)———

FORM OF PETITION—(*see Section XX.*)

That your petitioner (*or, as the case may be, that A. B. of whom your petitioner is the assignee or executor or administrator*) has obtained Her Majesty's Letters Patent dated the day of for (*state the title of the invention*), and that such Letters Patent are to continue in force for years. That your petitioner believes that the said invention is not now, and has not hitherto been, publicly known or used in India.

The following is a description of the invention (*here describe it*).

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV. of 1859.

And your petitioner, &c.

(Signed)———

The day of

ACT No. XVIII OF 1859.

(*Received the assent of the Governor-General on the 25th July 1859.*)

1. British subjects how punishable for offences, which are by law made punishable in the Mofussil upon conviction by a Magistrate.

2. When such offences are committed within the local limits of the jurisdiction of Her Majesty's Courts.

3. Jurisdiction expressly given to Justice of the Peace not to be affected.

4. Construction of the word "Magistrate" in certain Acts.

An Act to amend the law relating to offences declared to be punishable on conviction before a Magistrate.

WHEREAS it is expedient to amend the law relating to offences declared to be punishable on conviction before a Magistrate; It is enacted as follows:—

British subjects how punishable for offences punishable in the Mofussil upon conviction by a Magistrate.

I. If any offence, which by any Act of the Governor-General in Council heretofore passed is declared to be punishable upon conviction by a Magistrate, shall be committed by a European British subject beyond the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, the offender, if not otherwise punishable, shall be liable, upon conviction before one of the said Supreme Courts of Judicature, to the punishment to which by such Act the offender is declared to be liable upon conviction before a Magistrate.

When such offences are committed within the local limits of the jurisdiction of Supreme Courts.

II. If any offence, which by any Act of the Governor-General in Council heretofore passed is declared to be punishable upon conviction by a Magistrate, shall be committed by any person within the local limits of the jurisdiction of any Court of Judicature established by Royal Charter, the offender, if not otherwise punishable, shall be liable upon conviction before such Court to the punishment to which by such Act the offender is declared to be liable upon conviction before a Magistrate.

Jurisdiction expressly given to Justice of the Peace not to be affected.

III. Nothing in this Act shall extend to any case in which jurisdiction is expressly given to a Justice of the Peace to convict the offender.

Construction of the word "Magistrate" in certain Acts.

IV. Whenever, in any Act heretofore passed by the Governor-General in Council, the word "Magistrate" is declared to include a Justice of the Peace, such Justice of the Peace shall not by virtue of such Act be deemed to have jurisdiction to punish any offence, unless the same shall be committed within the local limits of the jurisdiction of any of the Courts of Judicature established by Royal Charter.

ACT No. XXV. OF 1859.*

(Received the assent of the Governor-General on the 14th December 1859.)

1. Number of Native Passengers to be carried in unlicensed Vessels.
2. Number of Native Passengers to be carried in licensed Vessels. Two exceptions.
3. Penalty on Master of unlicensed Vessel for infringement of the above provisions.
4. Penalty on Master of licensed Vessel.
5. Government to appoint Ports for shipment of Passengers when the number of Passengers to be carried is greater than one to every four tons of burden.
6. Grant of licenses to Vessels.
7. Certain licensed Passenger Vessels to carry provisions according to appointed scale.
8. Penalty for omitting to supply Passengers with prescribed allowance of food and water.
9. Supply of provisions on board Passenger Ships plying to and from Ceylon, &c.
10. List of Passengers to be signed by Master. Additional Passengers.
11. Penalty for bringing Native Passengers into any Port on the Eastern Coast of the Bay of Bengal from any Foreign European Settlement in excess of authorized proportion.
12. Penalty for impeding entry or inspection.
13. Penalty on landing Passenger at a place other than that at which he has contracted to land.
14. Passenger's right of action preserved.
15. Adjudication of offences and recovery of penalties. Sum ordered to be paid leviable by distress on Ship.
16. Jurisdiction.
17. Application of penalties.
18. Interpretation. "Magistrate." "Local Government."
19. Commencement of Act.

An Act to prevent the over-crowding of Vessels carrying Native Passengers in the Bay of Bengal.

WHEREAS it is necessary to prevent the over-crowding of Vessels carrying Native Passengers in the Bay of Bengal; It is enacted as follows :—

Number of Native Passengers to be carried in unlicensed Vessels.

I. No vessel shall carry Native Passengers from any port or place under the Presidency of Fort St. George or from Chittagong or from any port in the Province of Orissa, to any port or place on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca or in Ceylon; or from any port or place on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca, to any port or place under the Presidency of Fort St. George, or to Chittagong, or to any port in the Province of Orissa, in a proportion greater than one Passenger to every four tons of the burden of such vessel, without a license.

Number of Native Passengers to be carried in licensed Vessels.

First exception.

Second exception.

II. No vessel shall be licensed to carry Passengers on any such voyage as aforesaid, in a proportion greater than one Passenger to every ton of burden, nor unless the Vessel has space on a deck or platform under hatches reserved for the accommodation of the Passengers in the proportion of six superficial feet for every Passenger, with not less than five feet clear between the upper deck and the lower deck or platform: except a vessel proceeding in ballast from any part of the Coast of the Gulf of Manar or Palks' Strait to any port or place in Ceylon, which may be licensed to carry a number of Passengers not exceeding the proportion of tow and a half to every ton of her burden, provided that the whole of the space, usually allotted for cargo and not occupied by ballast, be kept for the accommodation of the Passengers, and for storing the provisions and water for their use, and that the space left clear for the accommodation of the Passengers on the deck or decks of the Vessel be not less than four superficial feet for each Passenger: and except a vessel carrying Native Passengers between Chittagong and any Port or place on the Coast of Arracan, which may be licensed to carry a number of Passengers not exceeding the proportion of two and a half to every ton of her burden, subject to such regulations as the Government of Bengal may prescribe.

Penalty on Master unlicensed Vessel.

III. The Master or Tindal of any vessel which shall carry Native Passengers on any such voyage as aforesaid, without a license, in a proportion exceeding that laid down in Section I, shall be liable to a fine not exceeding Twenty Rupees for each Passenger in excess of such proportion.

* See Act XII of 1870.

IV. The Master or Tindal of any licensed vessel which shall carry on any such voyage a greater number of Passengers than is specified in the license, or in which the accommodation therein required shall not be afforded, shall be liable to a fine not exceeding Twenty Rupees for each Passenger in excess of such number, or for each Passenger who is not provided with accommodation agreeably to the license.

Penalty on Master of licensed Vessel.

V. Passengers in a greater number than one Passenger to every four tons of the burden of any vessel, shall not be shipped from the territories under the Government of Fort St. George or from the Province of Orissa, for Ceylon or the Eastern Coast of the Bay of Bengal or the Straits of Malacca; or from the Eastern Coast of the Bay of Bengal or the Straits of Malacca, for the said Territories or Province or for Chittagong, except from such ports as shall be from time to time appointed by the local Government by an Order published in the Government Gazette and in the Straits Settlement in such manner as the Governor shall notify; and the Master or Tindal of any vessel who shall take on board Passengers for such voyage from any other port or place in a greater proportion to the burden of the vessel than is above-mentioned, shall be liable to a fine not exceeding Twenty Rupees for each Passenger embarked.

Government to appoint Ports for Shipment of Passengers when the number of Passengers to be carried is greater than one to every four tons of burden.

VI. It shall be at the discretion of the Collectors of Sea Customs for the ports appointed for shipping Native Passengers, or such other persons as the local Government may from time to time appoint for the purpose, to grant licenses to vessels under this Act. Provided, that such licenses shall not be granted, except for vessels within the exceptions in Section II, till the vessels have been surveyed according to such directions as shall be given from time to time by the local Government. The license shall describe the vessel, her tonnage, and rig; the number of her boats, anchors, and cables; and what instruments for the purpose of navigation she is supplied with; also the name of the owner and of the Master or Tindal and the number and composition of the crew; and shall specify the number of passengers she may carry and the space to be assigned for their accommodation.

Grant of licenses to Vessels.

Proviso.

VII. The Master or Tindal of any vessel licensed to carry Passengers from any port in the territories under the Government of Fort St. George or from Chittagong or from any port in the Province of Orissa, to any port or place on the Eastern Coast of the Bay of Bengal or the Straits of Malacca; or from any port on the Eastern Coast of the Bay of Bengal or the Straits of Malacca, to any port or place in the territories under the Government of Fort St. George, or to Chittagong, or to any port in the Province of Orissa; which shall proceed on such voyage not being furnished with provisions and water according to such scale as shall be laid down from time to time by an order of the local Government published in the Government Gazette and in the Straits Settlement in such manner as the Governor shall notify, shall be liable to a fine not exceeding Twenty Rupees for each Passenger in excess of the number fully supplied with provisions and water according to such scale.

Certain licensed Passenger Vessels to carry provisions according to appointed scale.

VIII. The Master or Tindal of any vessel licensed to carry Passengers as aforesaid, who shall wilfully and without satisfactory excuse omit to supply to every Passenger the prescribed allowance of food and water, shall be liable for such omission to a fine which may extend to Twenty Rupees for every Passenger who has suffered privation thereby.

Penalty for omitting to supply Passengers with prescribed allowance of food and water.

IX. The Master or Tindal of any vessel licensed to carry Passengers from any port under the Government of Fort St. George to Ceylon, or between Chittagong and any port or place on the Coast of Arracan, who shall proceed on any such voyage without having laid in a supply of water and provisions for the Passengers according to a scale to be fixed by the Collector of Sea Customs for such port, or such other person as the local Government may from time to time appoint for the purpose, which shall be hung up at the Custom House of the Port, shall be liable to a fine not exceeding One Hundred Rupees.

Supply of provisions on board Passenger Ships plying to and from Ceylon, &c.

X. The Master or Tindal of any vessel licensed to carry Passengers as hereinbefore provided shall sign and deliver in duplicate to the principal Officer of Customs at the place of embarkation, or such other person as the local Government may from time to time appoint for the purpose, a list, according to the form annexed to this Act, of all Passengers to be conveyed in such vessel; and such Officer, after satisfying himself of the correctness of the same, and that the number of Passengers authorized is not exceeded, shall countersign and return one such list to the Master or Tindal, to be produced to the proper Officer at the port to which the vessel is bound; and should any additional Passengers engage to proceed by such Vessel after such list has been so countersigned, the Master or Tindal may insert their names in the original list obtaining the signature of the

List of Passengers to be signed by Master. Additional Passengers.

controling Officer as before. The Officer in charge of the Customs may withhold the Port Clearance till this rule is complied with.

Penalty for bringing Native Passengers into any Port on the Eastern Coast of the Bay of Bengal from any Foreign European Settlement in excess of authorized proportion.

XI. If any vessel, bringing Native Passengers into any port or place whatsoever on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca, from any Foreign European Settlement situate on the line of Coast within the limits of the Presidency of Fort Saint George, shall have on board a greater number of Passengers than in the proportion prescribed in Section I of this Act the Master or Tindal of such vessel shall be liable to a penalty of Twenty Rupees for each Passenger in excess of such proportion, unless the vessel shall have been licensed under Section VI. of this Act, and shall have complied with the stipulations as regards space, water, and provisions laid down in Section II.

Penalty for impeding entry or inspection.

XII. The principal Officer in charge of the Customs at the port of embarkation or of destination, or any person authorized by him, shall be at liberty at all times to enter and inspect any Passenger Vessel, and the fittings, provisions, and stores therein; and whoever impedes such entry or inspection, or refuses to allow of the same, shall be liable to a fine not exceeding Fifty Rupees.

Penalty on landing Passenger at a place other than that at which he has contraced to land.

XIII. If any native Passenger in any Ship shall be landed at any port or place other than the port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall for each offence be liable to a penalty not exceeding Two Hundred Rupees.

Passenger's right of action preserved.

XIV. Nothing in this Act contained shall take away or abridge any right of action which may accrue to any Native Passenger, or to any other person, in respect of the breach or non-performance of any contract made with the Master or Owner of the Ship or his Agent.

Adjudication of offences and recovery of penalties. Sum ordered to be paid leviable by distress on Ship.

XV. All offences against this Act shall be punishable in a summary manner by a Magistrate. If the person directed to pay any penalty is the Master or Tindal of a ship, and the same is not paid at the time and in the manner prescribed by the order of payment, the Magistrate, may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel.

Jurisdiction.

XVI. For the purpose of the adjudication of penalties under this Act, any offence shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Application of penalties.

XVII. Any Magistrate imposing any penalties under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings.

Interpretation. "Magistrate." "Local Government."

XVIII. The word "Magistrate" in this Act shall include a Magistrate of Police appointed under Act XIII of 1856, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and a Justice of the Peace.

The words "Local Government" shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the said territories where the port or place in question is situate.

XIX. Repealed by Act XIV. of 1870.

SCHEDULE.

FORM.

1	2	3	4	5	6	7
Name of Vessel.	Name of Master.	Tons per register.	Port of embarkation.	Numbers and names of Passengers.	Port at which Passengers have contracted to be landed.	Date of departure.

(Signed)————

Master.

(Countersigned)————,

Principal Officer of Customs.

Note.—In the case of Vessels carrying Passengers to Ceylon, or between Chittagong and any port or place on the Coast of Arracan, it will be sufficient to insert the number, and not the names, of Passengers in Column 5.

ACT No. XXVIII. OF 1859.

(Received the assent of the Governor-General on the 26th December 1859.)

1. Act XXXIII of 1857 to continue in force for two years from 5th December 1859.

An Act to revive and continue in force for a further period Act XXXIII of 1857 (to make further provision relating to Foreigners.)

WHEREAS by Act XXXIII of 1857 ("An Act to make further provision relating to Foreigners" which received the assent of the Governor-General on the 5th December 1857), it was enacted that the said Act should continue in force for two years; and whereas it is expedient to revive and continue the said Act for a further period; It is enacted as follows:—

I. The said Act XXXIII of 1857 shall continue in force for the period of two years from the 5th day of December 1859,* and shall be deemed and taken to have had effect as if this Act had actually passed and received the assent of the Governor-General before the expiration of the said Act XXXIII of 1857.

* Continued in force for 2 years more by Act I, 1862.

ACT No. I OF 1860.

(Received the assent of the Governor-General on the 5th January 1860.)

1. *Law repealed.*
2. *Customs Duty on Salt imported into the North-Western Provinces.*
3. *Indemnity to Collectors, &c.*

An Act to empower the Governor-General in Council to increase the rate of Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal.

WHEREAS it is expedient to increase the rate of Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal; It is enacted as follows:—

Law repealed.

I. So much of Section II of Act XIV of 1843 *(for regulating the levy of Customs Duties, and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal)* as prescribes the levy of a duty of two Rupees per maund on the import of Salt into the said Provinces, and of a further Duty of one Rupees per maund on the transmission thereof to the Eastward of Allahabad, is hereby repealed.

Customs Duty on Salt imported into the North-Western Provinces.

II. It shall be lawful for the Governor-General in Council to order the levy, on and after the 24th day of December 1859, of a Customs Duty not exceeding three Rupees per maund on Salt imported into the North-Western Provinces of the Presidency of Bengal. A further Duty not exceeding one Rupee per maund, to be fixed by order of the Governor-General in Council, shall, on and after the said 24th day of December 1859, be leviable on the transmission of Salt to the Eastward of Allahabad.

Indemnity to Collectors, &c.

III. Every Collector of Customs and other officer is hereby indemnified for any thing done, on and after the said 24th day of December 1859, in collecting or enforcing the Duty imposed under the provisions of this Act or by virtue of any order of Government heretofore made authorizing the levy of any such Duty; or in otherwise carrying this Act into effect: and no action or other proceeding shall be maintained against any such Collector or other officer in respect of any thing so done.

ACT No. II OF 1860.

(Received the assent of the Governor-General on the 15th January 1860.)

1. *Certain provisions of the Statute made applicable.*
2. *Governors or Consuls may pay expenses of Passengers taken off a Passenger ship.*
3. *Governors or Consuls may send on Passengers, if the Master of the ship fail to do so.*
4. *Expenses incurred under the two preceding Sections to be a Crown debt. Passengers forwarded by Governor, &c. not entitled to compensation.*

An Act to amend the law relating to the Carriage of Passengers by Sea.

WHEREAS by Section XCIX of an Act of the Imperial Parliament called "The Passengers Act 1855," it is enacted that "it shall be lawful for the Governor-General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any ports or places within the territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts:" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced." And whereas it is expedient to make certain parts of the

said Act of Parliament applicable to the carriage of Passengers upon the voyages hereinafter specified; It is enacted as follows :—

Certain provisions of the Statute made applicable.

I. The provisions contained in Sections II, III, and IV of this Act (being parts of the said Act of Parliament) are declared applicable to the carriage of Passengers upon the following voyages :—

Voyages from the Ports of Calcutta, Madras, and Bombay to the Mauritius, * * * *

Voyages from the Ports of Calcutta, Madras, and Bombay, to Jamaica, British Guiana, and Trinidad, * * * *

Voyages from the Ports of Calcutta, Madras, and Bombay, to St. Lucia and Grenada, * * * *

Voyage from Ports in British India, to ports in the Red Sea or Persian Gulf, under *Act XXI of 1858.**

Governors or Consuls may pay expenses of Passengers taken off a Passenger ship.

II. If the Passengers on any such voyage as is specified in the last preceding Section, shall be taken off from the ship carrying such passengers, or shall be picked up at Sea from any boat, raft or otherwise, it shall be lawful, if the Port or place to which they shall be conveyed shall be in any of Her Majesty's Colonial possessions, for the Governor of such Colony, or for any person authorized by him for the purpose, or if in any Foreign country, for Her Majesty's Consular Officer, at such Port or place therein, to defray all are any part of the expenses thereby incurred.

Governors or Consuls may send on Passengers, if the Master of the ship fail to do so.

III. If any Passenger of any such Passenger ship as aforesaid shall, without any neglect or default of his own, find himself within any Colonial or Foreign Port or place other than that at which he may have contracted to land, it shall be lawful for the Governor of such Colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at such Foreign Port or place, as the case may be, to forward such Passenger to his intended destination, unless the Master of such ship shall, within forty-eight hours of the arrival of such Passenger, give to the Governor or Consular Officer, as the case may be, a written undertaking to forward or carry on within six weeks thereafter such Passenger to his original destination, and unless such Master shall accordingly forward or carry him on within that period.

Expenses incurred under the two preceding Sections to be a Crown debt.

IV. All expenses incurred under the last two preceding Sections or either of them, by or by the authority of such Governor or Consular Officer as aforesaid, including the cost of maintaining the Passengers until forwarded to their destination, and of all necessary beddings, provisions, and stores, shall become a debt to Her Majesty and Her successors from the Owner, Charterer, and Master of such ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts; and a certificate purporting to be under the hand of any such Governor or Consular Officer (as the case may be) stating the total amount of such expenses, shall in any suit or other proceeding for the recovery of such debt be received in evidence without proof of the hand-writing or of the Official character of such Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of such expenses, and that the same were duly incurred. Provided nevertheless, that in no case shall any larger sum be recovered on account of such expenses than a sum equal to twice the total amount of passage money received by the Owner, Charterer, or Master of such Passenger ship or any of them, from or on account of the whole number of Passengers who may have embarked in such ship; which total amount of passage money shall be proved by the defendant if he will have the advantage of this limitation of the debt: but if any such Passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding Section, they shall not be entitled to the return of their passage money, or to any compensation for loss of passage.

Proviso.

Passengers forwarded by Governor &c. not entitled to compensation.

ACT No. V OF 1860.†

(Received the assent of the Governor-General on the 8th February 1860.)

1. *Appropriation of surplus fines &c.*
2. *Madras Presidency. Procedure in dealing with the offences of forcibly opposing the seizure of Cattle, or rescuing Cattle.*

* Act XII. 1870 substitutes for words italicised the native Passenger ships Act, 1870. The words omitted in this Section are repealed by Act XIV of 1870.

† The omitted Sections of this Act apply exclusively to the Madras Presidency.

3. Madras Presidency. Heads of Police, &c. not to be deemed Officers having Criminal jurisdiction within the meaning of Section XIV Act III of 1857.

4. Madras Presidency. Construction of the words "Heads of Villages" in Section IV Act III of 1857.

5. Act to be read as part of Act III of 1857.

An Act to amend Act III of 1857 (relating to trespasses by Cattle).

WHEREAS, under the provisions of Act III of 1857, fines may be levied from the owners of Cattle found trespassing and doing damage, or straying in any public place, and all unclaimed Cattle so found may be sold after sufficient notice ; and whereas it is provided in the said Act that the sums received on account of fines and the unclaimed proceeds of the sale of unclaimed Cattle shall be applied to the payment of the salaries of pound-keepers and other purposes connected with the execution of the Act ; and whereas the amount of the said sums may be larger than is required for the said purposes, and it is expedient to provide for their legal application to other purposes ; It is enacted as follows :—

Appropriation of surplus fines, &c.

I. When the amonnt of the sums received on account of fines and the unclaimed proceeds of the sale of unclaimed Cattle is larger than is required for the payment of the salaries allowed to pound-keepers and the expenses incurred for the construction and maintenance of pounds and other purposes connected with the execution of the said Act, any surplus which may remain after making full provision for the said salaries and expenses may be applied, under the direction of the local Government, to the construction and repair of roads and bridges, and other works of a like nature.

Act to be read as part of Act III of 1857.

V. This Act shall be read with and taken as part of Act III of 1857.

ACT No. VII OF 1860.*

(Received the assent of the Governor-General on the 24th February 1860.)

1. Laws repealed.

2. Existing Company, before obtaining registration under this Act, to give notice to Customers.

3. Limited Banking Company to furnish a statement.

4. Trust property.

5. Existing Banking Companies may register under this Act.

6. Registration under this Act not to affect obligations incurred previously to registration.

7. Saving of liabilities of persons holding shares before Registration under Act.

8. Continuation of existing actions and suits.

9. Winding-up.

10. Act not to apply to Banks of Bengal, Madras, or Bombay.

11. Construction of Act.

An Act to enable Joint Stock Banking Companies to be formed on the principle of Limited Liability.

WHEREAS it is expedient to enable Joint Stock Banking Companies to be formed on the principle of Limited Liability : It is enacted as follows :—

Laws repealed.

I. So much of Section I of Act XIX of 1857 (*for the incorporation and regulation of Joint Stock Companies and other Associations, either with or without Limited Liability of the Members thereof*) as provides that nothing in that Act shall authorize any persons to form themselves into a Joint Stock Company or Association with Limited Liability for the purpose of banking ; and so much of Section XCIX of the said Act as provides that no Company established for the purpose of Banking shall be registered under that Act as a Limited Company, are hereby repealed, subject to the following Proviso that no Banking Company, claiming to issue notes in India shall be entitled to Limited Liability in respect of such issue, but shall continue subject to unlimited Liability in respect thereof, and that, if necessary, the assets shall be marshalled for the benefit of the general

* See Act X 1866, Sections 191, 192 and 219 which repeals this Act with certain exceptions.

creditors, and the Shareholders shall be liable for the whole amount of the issue in addition to the sum for which they would be liable as Shareholders of a Limited Company.

Existing Company, before obtaining registration under this Act to give notice to Customers.

II. Every existing Banking Company which shall register itself as a Limited Banking Company, shall at least thirty days previously to obtaining a certificate of Registration with Limited Liability, give notice that it is intended so to register the same, to every person and partnership firm who shall have a Banking Account with the Company, and such notice shall be given either by delivering the same to such person or firm, or leaving the same or putting the same into the Post in a registered letter addressed to him or them at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company; and in case the Company shall omit to give any such notice as is hereinbefore required to be given, then as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with Limited Liability shall have no operation.

Limited Banking Company to furnish a statement.

III. Every Limited Joint Stock Banking Company shall, before it commences business, or if a Banking Company at the time carrying on business with unlimited Liability, before it avails itself of the provisions of this Act, and also on the 1st day of February and 1st day of August in every year during which it carries on business, make a statement in the form contained in the Schedule hereto annexed, or as near thereto as circumstances will admit; such statement shall be in addition to the balance sheet required by the said Act to be made out and filed with the Registrar of Joint Stock Companies: a copy of such statement shall be put up in a conspicuous place in the Registered Office of the Company, and in every branch office or place where the Banking business of the Company is carried on, and if default is made in due compliance with the provisions of this Section, each Director shall be liable to a penalty not exceeding fifty Rupees for every day during which such default continues, and such penalties shall be recovered in a summary manner.

Trust property.

IV. All such estate or interest in moveable and immoveable property, and all such deeds, bonds, obligations, and rights as may belong to, or be vested in, any person or persons in trust for any Banking Company at the date of its Registration under this Act, or in trust for any other Company at the date of its Registration under the said Act XIX of 1857, shall immediately on Registration vest in such Banking or other Company, but no merger shall take place of any estates by reason of their uniting in the Company under this Section, without the express consent of the Company, certified by some instrument under their common seal.

Existing Banks may register under this Act.

V. Any Banking Company, consisting of seven or more persons having a capital of fixed amount, and divided into shares also of fixed amount, legally carrying on the business of Banking previously to the passing of this Act, may at any time hereafter, with the assent of a majority of such of its shareholders as may have been present in person, or in cases where proxies are allowed by the regulations of the Company by proxy, at some General Meeting summoned for the purpose, register itself as a Company under this Act, and when so registered all such provisions contained in any Letters Patent or Deed of settlement constituting or regulating the Company, as are inconsistent with the said Act XIX of 1857 or with this Act, shall no longer apply to the Company so registered, but such Registration shall not take away or affect any powers previously enjoyed by such Company of banking, issuing notes payable on demand, or of doing any other thing.

Registration under this Act not to affect obligations incurred previously to registration.

VI. The Registration under this Act of any Banking Company existing at the time of the passing of this Act, and hereby authorized to be registered, shall not affect or prejudice the liability of such Company to have enforced against it or its right to enforce any debt or obligation incurred, or any contract entered into, by, to, with or on account of such Company previously to such Registration, and all such debts, obligations, and contracts shall be binding on the Company when so registered, and the other parties thereto, to the same extent as if such Registration had not taken place.

Saving of liabilities of persons holding shares before Registration under Act.

VII. Every person who, at or previously to the date of the Registration under this Act of any Banking Company hereby authorized to be registered, may have held shares in such Company shall, in the event of the same being wound-up by the Court or voluntarily, be liable to contribute to the assets of the Company the same amount that he would, if this Act had not been passed, have been liable to pay to the Company, for, or on account of any debt of the Company in

pursuance of any action, suit, judgment, or other legal proceeding that might, if this Act had not been passed, have been instituted or enforced against himself or the Company.

Continuation of existing actions and suits.

VIII. All such actions, suits, and other legal proceedings, as may at the time of the Registration under this Act of any Company hereby authorized to be registered have been commenced by or against such Company or the Public Officer thereof, may be continued in the same manner as if such Registration had not taken place; nevertheless execution shall not issue against the effects of any individual Shareholder in, or member of, such Company upon any judgment, decree, or order obtained against such Company in any action, suit, or proceeding so commenced as aforesaid; but in the event of the property and effects of the Company being insufficient to satisfy such judgment, decree, or order, an order may be obtained for winding-up the Company in manner directed by the said Act XIX of 1857.

Winding-up.

IX. All Companies registered under this Act shall be wound-up in the manner directed by the said Act XIX of 1857.

Act not to apply to Banks of Bengal, Madras, or Bombay.

X. Nothing in this Act shall affect Act VI of 1839, *(relating to the Bank of Bengal)* Act III of 1840 *(for the incorporation of a Bank at Bombay)*, or Act IX of 1843 *(for the incorporation of a Bank at Madras)*, or shall be deemed to apply to the several Banks of Bengal, Madras, and Bombay incorporated by the said Acts respectively.

Construction of Act.

XI. This Act shall be deemed to be incorporated with and to form part of the said Act XIX of 1857.

SCHEDULE.

Form of Statement to be published by a Limited Joint Stock Bankinig Company.

The Liability of the Shareholders is limited.

The capital of the Company is divided into Shares of Rupees each.

The number of Shares issued is

Calls to the amount of per Share have been made, under which the sum of Rupees has been received.

The liabilities of the Company on the first day of January (or July) were—

	Rs.	As.	P.
Notes issued, ...			
Deposits not bearing Interest, ...			
Deposits bearing Interest, ...			
Seven Day and other Bills, ...			
Total,			

The assets of the Company on that day were—

	Rs.	As.	P.
Government Securities, ...			
Bills of Exchange, ...			
Loans on Mortgage, ...			
Other Loans, ...			
Bank Premises, ...			
Other Securities, exclusive of unpaid Calls on Shares, ...			
Total,			

Dated the first day of or one thousand eight hundred and

ACT No. VIII OF 1860.

(Received the assent of the Governor-General on the 12th March 1860)

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1. Act repealed.

2. Governor-General in Council to have the exclusive privilege of establishing Electric Telegraphs. Proviso.

3. Penalties for establishing or maintaining unauthorized Electric Telegraphs.
4. Penalty for using or working such Telegraphs.
5. Government may take possession of Telegraphs established by license.
6. Government may establish Telegraphs on land of Railway Company.
7. Governor General in Council to frame rules for the conduct of Government Telegraphs.
8. Government not responsible for loss or damage.
9. Penalty for intruding into signal room, &c.
10. Penalties for cutting the line.
11. Penalties for omitting to transmit or deliver messages or for divulging messages, &c.
12. Penalty for offering a bribe.
13. Penalty for misconduct.
14. Penalties for sending unpaid messages.
15. Penalties for sending fabricated message.
16. Jurisdiction beyond local limits of Supreme Court.
17. Jurisdiction within local limits of Supreme Court.
18. Fines how to be adjudged.
19. Fines how levied. Imprisonment if no sufficient distress, &c.
20. Authority to punish Government Servants who commit offences against this Act in Foreign territory.
21. Explanation of terms.
22. Government to frame rules for Telegraphs established by license. And to declare Act applicable to Telegraphs established within British Territories by Foreign Powers.

An Act for regulating the establishment and management of Electric Telegraphs in India.

WHEREAS it is expedient that better provision should be made for regulating the establishment and management of lines of Electric Telegraph in India; It is enacted as follows :—

I. Repealed by Act XIV. of 1870.

II. Within the British territories in India, the Governor-General of India in Council shall have the exclusive privilege of establishing lines of Electric Telegraph. Provided, that the Governor-General of India in Council may grant a license to any person or Company to establish a line of Electric Telegraph within any part of such territories, which license shall be revocable on the breach of any of the conditions therein contained.

G. G. in C. to have exclusive privilege of establishing Electric Telegraphs.
Proviso.

III. Whoever shall otherwise than under a license duly granted as aforesaid establish, or after revocation of such license maintain, a line of Electric Telegraph within the said territories, shall be liable to a fine not exceeding One Thousand Rupees, and for every week during which such line shall be maintained shall be liable to a further fine not exceeding Five Hundred Rupees.

Penalties for establishing or maintaining unauthorized Electric Telegraphs.

IV. Whoever shall use a line of Electric Telegraph, knowing or having reason to believe that it is an unlicensed line, for the purpose of sending or receiving messages, or shall perform any service incidental thereto, shall for every such offence be liable to a fine not exceeding Fifty Rupees.

Penalty for using or working such Telegraphs.

V. The Governor-General of India in Council may, on the occurrence of any public emergency, take temporary possession of any line of Electric Telegraph established under license within the said territories.

Government may take possession of Telegraphs established by license.

VI. Any Railway Company, on being required so to do by the Governor-General of India in Council, shall permit the Government to establish upon the land of such Company adjoining the line of Railway a line of Electric Telegraph, and shall give every reasonable facility for establishing and using the same.

Government may establish Telegraphs on land of Railway Company.

VII. The Governor-General of India in Council may from time to time frame rules for the conduct of Electric Telegraphs established by Government not inconsistent with this Act, and therein prescribe the regulations, conditions, and restrictions according to which all messages and signals shall be transmitted.

G. G. in C. to frame rules for the conduct of Government Telegraphs.

VIII. The Government shall not be responsible for any loss or damage which may occur in consequence of any person employed by the Government in the Electric Telegraph Department failing to transmit with accuracy any message entrusted to him for transmission; and no such person shall be responsible for any such loss or damage, unless he shall cause the same negligently, maliciously, or fraudulently.

Government not responsible for loss or damage.

IX. Whoever shall, without permission, enter into the signal room of a Government Telegraph Office, or shall refuse to quit the same on being requested to do so by any officer or servant employed therein, or shall wilfully obstruct or im-

Penalty for intruding into signal room, etc.

pede any such officer or servant in the performance of his duty, shall be liable to a fine not exceeding One Hundred Rupees.

Penalties for cutting the line.

X. Whoever shall wilfully cause or attempt to cause any interruption to the transmission of signals along a line of Electric Telegraph established by the Government, by cutting or injuring the wire, or by injuring any portion of the line or posts or any instrument or apparatus, or by any other means, shall be liable to imprisonment, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalties for omitting to transmit or deliver or for divulging any messages, etc.

XI. Whoever, being in the employ of the Government in the Electric Telegraph Department, shall wilfully secrete, make away with, alter, or omit to transmit any message which he may have received for transmission or delivery, or shall wilfully or otherwise than by the Official order of a Secretary to the Government of India, or Government of Madras or Bombay, or Lieutenant-Governor of Bengal or of the North-Western Provinces, or of the Punjab, or Chief Commissioner of Oude, or such other officers as the Governor-General of India in Council shall authorize to give such order, divulge any message, or the purport of any message or signal, to any person not entitled to receive, or to become acquainted with the same—shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalty for offering a bribe.

XII. Whoever offers a bribe to any person in the employ of the Government in the Electric Telegraph Department, in order to induce such person to act in a manner inconsistent with his duty, shall be liable to be imprisoned for a term not exceeding six months, or to fine, or to both.

Penalty for any misconduct.

XIII. Whoever, being in such employ, shall be guilty of any act of drunkenness, carelessness, or other misconduct, whereby the transmission or delivery of any message shall be endangered, or who shall loiter or make delay in the transmission or delivery of any message, shall be liable to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding One Hundred Rupees, or to both.

Penalties for sending messages without payment.

XIV. Whoever, being in such employ, shall transmit by the Electric Telegraph any message upon which the prescribed charge has not been paid, intending thereby to defraud the Government, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalties for sending fabricated message.

XV. Whoever shall transmit, or cause to be transmitted by an Electric Telegraph established by Government a message which he knows to be false or fabricated, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Jurisdiction beyond local limits of Supreme Court.

XVI. Any person not being a European British subject, who shall, beyond the local limits of the jurisdiction of a Court of Judicature established by Royal Charter, commit any of the offences mentioned in Sections X, XI, XII, XIII, XIV, and XV of this Act, shall be punishable upon conviction by any Magistrate within whose jurisdiction the offence shall be committed. If any such offence be committed beyond the said local limits by a European British subject, the offender shall be punishable upon conviction before a Court of Judicature established by Royal Charter.

Jurisdiction within local limits of Supreme Court.

XVII. Any person, whether a European British subject or not, who shall, within the local limits of the jurisdiction of a Court of Judicature established by Royal Charter, commit any of the offences referred to in the last preceding Section, shall be punishable upon conviction before such Court.

Fines how to be adjudged.

XVIII. Any person, whether a European British subject or not, who shall be guilty of any offence, for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Magistrate of Police for any of the Presidency Towns of Calcutta, Madras, and Bombay, or for the Settlement of Prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, within whose jurisdiction the offence shall be committed; and any person, hereby made punishable by a Magistrate of Police, shall be punishable upon summary conviction.

Fines how levied.

XIX. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Police Magistrate, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above-named officers, and in case any such fine shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless such party shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take such security

by way of recognizance or otherwise, and if, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer, by warrant under his hand, may commit the offender to prison, there to be imprisoned only, or to be imprisoned and kept to hard labor, according to the discretion of such Officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed Fifty Rupees, and for any term not exceeding four calendar months where the amount shall not exceed One Hundred Rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if no sufficient distress, &c.

XX. If any servant of the Government, employed in the Electric Telegraph Department within the dominions of any Foreign Prince or State in alliance with the Government of India in which an Electric Telegraph is established by the Government, shall, within the dominions of such Prince or State, commit any act hereby prohibited, or omit to do any act hereby required to be done by any person similarly employed within the British territories in India, such servant of the Government shall be guilty of an offence, and on conviction thereof shall be punished in the same manner as if such act had been done or omitted within the said last mentioned territories; and every such person may be tried, convicted, and punished either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor-General of India in Council to take cognizance of offences committed in such dominions by servants of the Government, or by any Court or Magistrate or other competent Officer in any part of the British territories in India in the same manner as if the offence had been committed in such part of the said territories.

Authority to punish servants of Government who commit offences against this Act in Foreign territory.

XXI. The word "Magistrate" in this Act shall include Joint Magistrates and persons lawfully exercising the powers of Magistrates, and the word "Fine" shall include a penalty or forfeiture.

Explanation of terms.

XXII. It shall be lawful for the Governor General in Council to frame rules for the conduct of any Electric Telegraph established by license under this Act, and to declare from time to time what portions of this Act shall be applicable to such Telegraph and to persons using the same, or employed in connexion therewith. It shall also be lawful for the Governor General in Council to declare from time to time that this Act, or such portions thereof as may be specified, shall be applicable to any Electric Telegraph established or to be established within the British Territories in India by any Foreign Prince or State with the consent of the British Government, and to persons using such Telegraph or employed in connexion therewith.

Government to frame rules for Telegraphs established by license.

Powers as to Telegraphs established by Foreign Powers.

ACT No. IX OF 1860.

(Received the assent of the Governor-General on the 12th March 1860.)

1. *Government may empower any Magistrate to decide disputes as to wages or price of work.*
2. *Magistrates to have jurisdiction in what cases.*
3. *Government to fix and alter local limits of jurisdiction.*
4. *Procedure in the investigation of disputes.*
5. *No appeal.*
6. *Order for payment. Distress.*
7. *Property distrained.*
8. *Penalty for workmen neglecting or refusing to work.*
9. *Operation of Act.*

An Act to make provision for the speedy determination of certain disputes bteween workmen engaged in Railway and other public works and their employers.

WHEREAS it is expedient to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers; It is enacted as follows:—

Government may empower any Magistrate to decide disputes as to wages or price of work.

I. It shall be lawful for the Executive Government of any Presidency or place within the British territories in India to invest any Magistrate, or other Officer exercising the powers of a Magistrate, with power to enquire into and decide disputes on account of wages, hire of carriage, or the price of work, between any workmen employed in the construction of any Railway, Canal, or other public work, the construction of which is or shall be sanctioned by Parliament or by any such Executive Government, and the person or persons by whom such workmen are employed.

Magistrates to have jurisdiction in what cases.

II. Magistrates empowered to decide disputes under the preceding Section shall have jurisdiction only in case the amount in dispute shall not exceed the sum of two hundred Rupees, and the claim is preferred within six months from the date on which the cause of action arose.

Government to fix and alter local limits of jurisdiction.

III. The Executive Government shall fix, and may from time to time alter, the local limits of the jurisdiction of any Magistrate invested with jurisdiction under Section I of this Act. A Magistrate so invested may hold a Court for the investigation of disputes of the nature described in the said Section, at any place within the local limits of his jurisdiction.

Procedure in the investigation of disputes.

IV. The rules for the institution of suits as provided in Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) shall, as far as circumstances will allow, be followed in the investigation of disputes under the preceding Sections, and the procedure adopted shall be that provided for cases in which the suit may be disposed of at the first hearing.

No appeal.

V. There shall be no appeal against any decision passed under this Act.

Order for payment.

VI. The Magistrate, having heard and decided the case, shall make an order for the payment of such sum of money (if any) as shall appear to him to be justly due: and if the person ordered to pay shall make default in the payment of such sum immediately or within such time as the Magistrate shall direct, the Magistrate shall issue his warrant to levy the money by distress and sale of the goods and chattels of the defaulter.

Distress.

Property distrained.

VII. If any question shall arise whether any goods or chattels seized under the warrant of distress belong to the defaulter, or are liable to be distrained and sold as aforesaid, the same shall be determined in the manner provided by the said Act VIII of 1859 for the determination of the like questions arising in the execution of decrees.

Penalty for workmen neglecting or refusing to work.

VIII. Any person who shall voluntarily engage for a stipulated period to work on any Railway, Canal, or other public work, the construction of which is or shall be sanctioned in the manner specified in Section I of this Act, or to execute any specific work in connection with such public work, and who shall wilfully and without lawful or reasonable excuse neglect or refuse to perform the work so stipulated for, shall be liable, on conviction before a Magistrate, to a fine not exceeding Twenty Rupees. The Magistrate may, at the request of the complainant or of any one authorized to act on his behalf, instead of fining such person, order him to perform or get performed the work according to the terms of his contract or engagement; and if he shall fail to comply with the order, the Magistrate may, upon proof to his satisfaction of such non-compliance, sentence such person to be imprisoned with or without hard labor for any term not exceeding two months.

Operation of Act.

IX. This Act shall take effect only in those districts or places to which it shall be extended by order of the Governor-General of India in Council, or of the Executive Government of any Presidency or place.

ACT No. XIV OF 1860.

(Received the assent of the Governor-General on the 26th April 1860.)

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1. *Execution of Civil process.*
2. *Execution of Criminal process.*
3. *Proof of such execution.*
4. *Limits of King's residence how to be defined.*

An Act to provide for the execution of process within the premises occupied by His Majesty the King of Oude.

WHEREAS it is expedient to make provision for the execution of process within the premises occupied by His Majesty the King of Oude; It is enacted as follows:—

I. When any process, issued by any Civil Court, Collector, or other Revenue Officer in Her Majesty's East Indian territories, is required to be served or executed within the premises occupied by the King of Oude, such process shall be transmitted to the Officer appointed to be Agent with His Majesty on the part of the British Government, and such Officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same with a certificate of what shall have been done thereon. Execution of Civil process.

II. When any process issued by any Criminal Court, Justice of the Peace, Magistrate, or Officer exercising the powers or any of the powers of a Magistrate in Her Majesty's East Indian territories, is required to be served or executed within the premises occupied by the King of Oude, such process may, at the discretion of the Court or Officer issuing the same, be transmitted to the Officer who shall have been appointed Agent with His Majesty on the part of the British Government, and in such case such Officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same with a certificate of what shall have been done thereon. Execution of Criminal process.

III. Every certificate returned by the Agent with His Majesty under this Act shall in all cases be admitted as *primâ facie* proof of the truth of the matter stated therein. Proof of such execution.

IV. It shall be lawful for the Governor General in Council to define, for the purposes of this Act, by notification in the Calcutta Gazette, the limits of the premises occupied by the King of Oude, and from time to time in like manner to alter such limits. Limits of King's residence how to be defined.

ACT No. XV OF 1860.*

(Received the assent of the Governor-General on the 26th April 1860.)

1. *New line of Canal made subject to Section II Act XXII of 1836.*
2. *Act to be read as part of Act XXII of 1836.*

An Act to amend and extend Act XXII of 1836 (*relating to the levy of a Toll on Boats, Rafts, and Floats passing through the Circular and Eastern Canals*).

WHEREAS it has been found necessary to open for traffic a new Canal leading from the late Toll House at Dhappa to Ooltadanga, and it is expedient that a Toll should be levied on Boats, Rafts, and Floats passing through the said Canal; It is enacted as follows:—

I. The following line of nagivation, from the date of the passing of this Act, shall be subject to the provisions of Section II Act XXII of 1836, in like manner as is enacted with respect to the two lines of navigation therein described (that is to say)— New line of Canal made subject to Section II Act XXII of 1836.

The line of Canal running North from the late Toll House at Dhappa to Ooltadanga where it joins the Circular Canal.

II. This Act shall be construed as part of the said Act XXII of 1836. Act to be read as part of Act XXII of 1836.

ACT No. XVI OF 1860.

(Received the assent of the Governor-General on the 26th April 1860.)

1. *Section repealed.*
2. *Disallowance of Bye-laws by Government.*
3. *Publication of disallowance.*

* This Act is to cease to apply to all navigable channels to which Act V. 1864 B. C. may be extended *Vide.* Act V. 1864 B. C. Section 2.

An Act to amend Act XIV of 1856.

WHEREAS it is enacted by Section CXXI of Act XIV of 1856 (*for the conservency and improvement of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca*) that certain Bye-laws made by the Municipal Commissioners shall be transmitted to the Clerk of the Legislative Council as soon as conveniently may be after the confirmation thereof, and that no such Bye-law shall have effect if disallowed by order of the Legislative Council; and whereas doubts have arisen whether the Legislative Council can legally disallow any such Bye-laws by an order, or in any other manner than by a Law or Regulation, and it is expedient to avoid such doubts and to make other provision for disallowing such Bye-laws; it is enacted as follows :—

Section repealed.

I. Section CXXI of the said Act XIV of 1856 is hereby repealed.

Disallowance of Bye-laws by Government.

II. No Bye-law made under the provisions of the said Act, though confirmed by the local Government, shall continue in force after it shall have been disallowed by the local Government, except as to an act done or a breach of such Bye-law committed before the disallowance thereof.

Publication of disallowance.

III. Every disallowance of such a Bye-law shall be published in the Government Gazette, or in one or more of the public newspapers; and all Courts and Magistrates shall take judicial notice of such disallowance.

ACT No. XVII OF 1860.

(Received the assent of the Governor-General on the 26th April 1860.)

1. *Act V of 1858 repealed.*
2. *Time for the surrender of certain escaped offenders.*
3. *Punishment for not surrendering within the time named. In what cases Magistrate may pass sentence without commitment to the Sessions.*
4. *Sentences under Act V of 1858, to be deemed valid.*
5. *Certain escaped offenders, remanded to Jail, not to be prosecuted under this Act.*
6. *Enumeration of crimes referred to in Section II.*
7. *Punishment for knowingly harbouring or concealing such offenders.*
8. *Landholders to give early intelligence of the resort of escaped prisoners to their estates.*
9. *Magistrates &c., authorized to tender pardon in certain cases.*
10. *Jurisdiction.*

An Act to repeal Act V of 1858 (*for the punishment of certain Offenders who have escaped from Jail, and of persons who shall knowingly harbour such Offenders*), and to make certain provisions in lieu thereof.

WHEREAS it is expedient to repeal Act V of 1858 (*for the punishment of certain Offenders who have escaped from Jail, and of persons who shall knowingly harbour such Offenders*), and to make certain provisions in lieu therof; It is enacted as follows :—

Act V of 1858 repealed.

I. Act V of 1858 is repealed except as to any sentences passed under that Act.

Time for the surrender of certain escaped offenders.

II. It shall be competent to the Executive Government of any Presidency or place to declare by an order, as regards any or all of the Districts under such Government, the time within which the persons, who within such District or Districts shall, between the first of May 1857 and the time so declared, have escaped from Jail or other lawful custody whilst detained under sentence of imprisonment for any of the crimes hereinafter mentioned, could and ought to have surrendered themselves to a Magistrate or Police Officer; and no such person, who shall have so surrendered himself within the period fixed as aforesaid, shall be liable to be prosecuted under this Act.

Punishment for not surrendering within the time named.

IIII. Every person who, whilst detained as aforesaid, shall have escaped from Jail or other lawful custody during the period mentioned in the last preceding Section, and who shall not have surrendered himself within the time declared by the Executive Government as aforesaid, may be sentenced to transportation for life or for any shorter period not being less than five years, or to imprisonment with or without hard labor in irons for any period not exceeding three years, in ad-

dition to any unexpired term of his original sentence. In any case falling within the provisions of this Section in which the Magistrate shall be of opinion that in addition to the unexpired term of the offender's original sentence, a more severe sentence than that which such Magistrate is by any law for the time being in force empowered to pass is not called for, it shall not be necessary for the Magistrate to order the commitment of the offender to the Sessions Court, but he may himself pass sentence to the extent of his powers and proceed to carry the sentence into execution.

In what cases Magistrate may pass sentence without commitment to the Sessions.

IV. All sentences already passed in cases falling within the provisions of Act V of 1858, shall be deemed valid, anything in the said Act to the contrary notwithstanding.

Sentences under Act V of 1858, to be deemed valid.

V. If any person subject to the penalty prescribed in Section I Act V of 1858, shall, before the passing of this Act, have been remanded to Jail under the order of a Magistrate to undergo the portion of his sentence remaining unexpired at the date of his escape from Jail or other lawful custody, such person shall not be liable to be prosecuted under this Act.

Certain escaped offenders, remanded to Jail, not to be prosecuted under this Act.

VI. The following are the crimes referred to in Section II, namely rebellion, mutiny, desertion, murder, attempts to murder, thuggee, dacoity, robbery, belonging or having belonged to a gang of thugs or to a gang of dacoits or to a wandering gang associated for the purpose of theft or robbery.

Enumeration of crimes referred to in Section II.

VII. Whoever shall knowingly harbour or conceal, or assist in harbouring or concealing, any such convict who shall have escaped as aforesaid and shall not have surrendered within the period provided in Section II of this Act, shall be liable to imprisonment with or without hard labor for any term not exceeding seven years, and shall also be liable to fine.

Punishment for knowingly harbouring or concealing such offenders.

VIII. All proprietors of lands, and all farmers, agents, and other persons having the charge or management of lands, are hereby declared accountable for the early communication to the Magistrates and Police Officers of intelligence of the resort, to any place within the limits of the lands held or managed by them, of any person in respect of whom there shall be reasonable suspicion of his being such convict who has escaped as aforesaid; and every proprietor or other person as aforesaid, who shall neglect to give such intelligence, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding six months, and to fine not exceeding Two Hundred Rupees, commutable, if not paid, to imprisonment for a further term not exceeding six months.

Landholders to give early intelligence of the resort of escaped prisoners to their estates.

IX. Any Magistrate or person exercising the full powers of a magistrate, unless prohibited by order of the Executive Government, is hereby authorized, without reference to any other authority, to tender a pardon to any person who may have escaped from Jail or other lawful custody whilst detained under sentence of imprisonment for any crime or offence other than the crimes above-mentioned, on condition of his giving such information as may lead to the apprehension and conviction of one or more person or persons punishable under this Act. Such pardon may be tendered, as well in respect of the crime or offence for which the offender was detained, as of the offence of escaping from Jail.

Magistrates &c. authorized to tender pardon in certain cases.

X. Offences under this Act, other than those provided for by Section VIII of this Act, may be tried by a Sessions Judge, or by a Special Commissioner appointed under Act XIV of 1857 *(to make further provision for the trial and punishment of certain offences relating to the Army and of offences against the State)*; and the sentence or judgment shall not be subject to appeal. Provided that nothing contained in this Section shall extend to the trial of a European British subject.

Jurisdiction.

XI. Repealed by Act XVII, 1862.

ACT No. XXI OF 1860.*

(Received the assent of the Governor-General on the 21st May 1860.)

1. *Societies formed by Memorandum of Association and Registration.*
2. *Memorandum of Association.*
3. *Registration. Fees.*
4. *Annual list of managing body to be filed.*

* See Act X. 1866 as to Sections 1 and 18.

5. *Property of Society how to be vested.*
6. *How suits by and against Societies to be brought.*
7. *Suits not to abate.*
8. *How judgment to be enforced against officer.*
9. *Society may make Bye-law to be enforced.*
10. *Members liable to be sued as strangers.*
11. *Members guilty of offences punishable as strangers.*
12. *Societies enabled to alter, extend, or abridge their purposes.*
13. *Provision for the dissolution of Societies and adjustment of their affairs.*
14. *Upon a dissolution no Member to receive profit.*
15. *Who is a member.*
16. *The governing body defined.*
17. *Registration of Societies formed before this Act.*
18. *Such Societies to file Memorandum, &c., with Registrar of Joint-Stock Companies.*
19. *Inspection of documents. Certified copies.*
20. *To what Societies the Act shall apply.*

An Act for the Registration of Literary, Scientific, and Charitable Societies.

WHEREAS it is expedient that provision should be made for improving the legal condition of Societies established for the promotion of Literature, Science, or the Fine Arts, or for the diffusion of useful knowledge, or for Charitable purposes; It is enacted as follows:—

Societies formed by Memorandum of Association and Registration.

I. Any seven or more persons associated for any Literary, Scientific, or Charitable purpose, or for any such purpose as is described in Section XX of this Act, may, by subscribing their names to a Memorandum of Association and filing the same with the Registrar of Joint-Stock Companies under Act XIX of 1857, form themselves into a Society under this Act.

Memorandum of Association.

II. The Memorandum of Association shall contain the following things, (that is to say)—

The name of the Society.

The objects of the Society.

The names, addresses, and occupations of the Governors, Council, Directors, Committee, or other governing body to whom, by the Rules of the Society, the management of its affairs is entrusted. A copy of the Rules and Regulations of the Society, certified to be a correct copy by not less than three of the Members of the governing body, shall be filed with the Memorandum of Association.

Registration.

Fees.

III. Upon such Memorandum and certified copy being filed, the Registrar shall certify under his hand that the Society is registered under this Act. There shall be paid to the Registrar for every such registration a fee of fifty Rupees, or such smaller fee as the Governor-General of India in Council may from time to time direct; and all fees so paid shall be accounted for to Government.

Annual list of managing body to be filed.

IV. Once in every year, on or before the 14th day succeeding the day on which, according to the rules of the Society, the Annual General Meeting of the Society is held, or if the rules do not provide for an Annual General Meeting, in the month of January, a list shall be filed with the Registrar of Joint-Stock Companies, of the names, addresses, and occupations of the Governors, Council, Directors, Committee, or other governing body then entrusted with the management of the affairs of the Society.

Property of Society how to be vested.

V. The property, moveable and immoveable, belonging to a Society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such Society, and, in all proceedings Civil and Criminal, may be described as the property of the governing body of such Society by their proper title.

How suits by and against Societies to be brought.

VI. Every Society registered under this Act may sue or be sued in the name of the President, Chairman, or Principal Secretary, or Trustees, as shall be determined by the Rules and Regulations of the Society, and in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion; Provided, that it shall be competent for any person having a claim or demand against the Society, to sue the President or Chairman or principal Secretary or the Trustees thereof, if on application to the governing body some other Officer or person be not nominated to be the defendant.

Suits not to abate.

VII. No suit or proceeding in any Civil Court shall abate or discontinue by reason of the person, by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.

VIII. If a judgment shall be recovered against the person or officer named on behalf of the Society, such judgment shall not be put in force against the property, moveable or immoveable, or against the body of such person or officer, but against the property of the Society. The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the Society only, and shall require to have the judgment enforced against the property of the Society.

How judgment to be enforced against Officer.

IX. Whenever by any Bye-law duly made in accordance with the Rules and Regulations of the Society, or, if the Rules do not provide for the making of Bye-laws, by any Bye-law made at a General Meeting of the Members of the Society convened for the purpose, (for the making of which the concurrent votes of three-fifths of the Members present at such Meeting shall be necessary), any pecuniary penalty is imposed for the breach of any Rule or Bye-law of the Society, such penalty, when accrued, may be recovered in any Court having jurisdiction where the defendant shall reside, or the Society shall be situate as the Governing body thereof shall deem expedient.

Society may make Bye-law to be enforced.

X. Any Member who may be in arrear of a subscription which according to the Rules of the Society he is bound to pay, or who shall possess himself of or detain, any property of the Society in a manner or for a time contrary to such Rules, or shall injure or destroy any property of the Society, may be sued for such arrear or for the damage accruing from such detention, injury, or destruction of property in the manner hereinbefore provided. But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the Society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought, or from the Society, and in the latter case shall have process against the property of the said Society in the manner above described.

Members liable to be sued as strangers.

XI. Any Member of the Society who shall steal, purloin, or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such Society, or shall forge any deed, bond, security for money, receipt, or other instrument, whereby the funds of the Society may be exposed to loss, shall be subject to the same prosecution, and, if convicted, shall be liable to be punished in like manner, as any person not a Member would be subject and liable to in respect of the like offence.

Members guilty of offences punishable as strangers.

XII. Whenever it shall appear to the governing body of any Society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such Society either wholly or partially with any other Society, such governing body may submit the proposition to the Members of the Society in a written or printed report, and may convene a Special Meeting for the consideration thereof according to the Regulations of the Society; but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every Member of the Society ten days previous to the Special Meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the Members delivered in person or by proxy, and confirmed by the votes of three-fifths of the Members present at a second Special Meeting convened by the governing body at an interval of one month after the former Meeting.

Societies enabled to alter, extend, or abridge their purposes.

XIII. Any number not less than three-fifths of the Members of any Society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the Society, its claims and liabilities, according to the Rules of the said Society applicable thereto, if any, and, if not, then as the governing body shall find expedient; Provided that, in the event of any dispute arising among the said governing body or the Members of the Society, the adjustment of its affairs shall be referred to the principal Court of original Civil jurisdiction of the District in which the chief building of the Society is situate; and the Court shall make such order in the matter as it shall deem requisite. Provided, that no Society shall be dissolved unless three-fifths of the Members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a General Meeting convened for the purpose. Provided that, whenever the Government is a Member of, or a contributor to, or otherwise interested in any Society registered under this Act, such Society shall not be dissolved without the consent of Government.

Provision for the dissolution of Societies and adjustment of their affairs.

XIV. If upon the dissolution of any Society registered under this Act there shall remain, after the satisfaction of all its debts and liabilities, any property

Upon a dissolution, no Member to receive profit.

whatsoever, the same shall not be paid to or distributed among the Members of the said Society or any of them, but shall be given to some other Society, to be determined by the votes of not less than three-fifths of the Members present personally or by proxy at the time of the dissolution, or in default thereof, by such Court as aforesaid; Provided however, that this Clause shall not apply to any Society which shall have been founded or established by the contributions of shareholders in the nature of a Joint Stock Company.

Proviso for Joint Stock Companies.

Who is a Member.

XV. For the purposes of this Act, a Member of a Society shall be a person, who, having been admitted therein according to the Rules and Regulations thereof shall have paid a subscription, or shall have signed the roll or list of Members thereof, and shall not have resigned in accordance with such Rules and Regulations; but in all procedings under this Act, no person shall be entitled to vote or be counted as a Member whose subscription at the time shall have been in arrear for a period exceeding three months.

The governing body defined.

XVI. The governing body of the Society shall be the Governors, Council, Directors, Committee, Trustees, or other body to whom by the Rules and Regulations of the Society the management of its affairs is entrusted.

Registration of Societies formed before this Act.

XVII. Any Company or Society established for a Literary, Scientific, or Charitable purpose and registered under Act XLIII of 1850, or any such Society established and constituted previously to the passing of this Act but not registered under the said Act LXIII of 1850, may at any time hereafter be registered as a Society under this Act; subject to the proviso, that, no such Company or Society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the Members present personally, or by proxy, at some General Meeting convened for the purpose by the governing body. In the case of a Company or Society registered under Act XLIII of 1850, the Directors shall be deemed to be such governing body. In the case of a Society not so registered, if no such body shall have been constituted on the establishment of the Society it shall be competent for the Members thereof, upon due notice, to create for itself a governing body to act for the Society thenceforth.

Such Societies to file Memorandum, &c., with Registrar of Joint-Stock Companies.

XVIII. In order to any such Society as is mentioned in the last preceding Section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint Stock Companies under Act XIX of 1857, a Memorandum showing the name of the Society, the objects of the Society, and the names, addresses and occupations of the governing body, together with a copy of the rules and Regulations of the Society certified as provided in Section II, and a copy of the report of the proceedings of the General Meeting at which the registration was resolved on.

Inspection of documents.

Certified copies.

XIX. Any person may inspect all documents filed with the Registrar under this Act on payment of a fee of one Rupee for each inspection; and any person may require a copy or extract of any document or any part of any document to be certified by the Registrar, on payment of two annas for every hundred words of such copy or extract; and such certified copy shall be *primâ facie* evidence of the matters therein contained in all legal proceedings whatever.

To what Societies the Act shall apply.

XX. The following Societies may be registered under this Act, Charitable Society, the Military Orphan Funds or Societies established at the several Presidencies of India, Societies established for the promotion of Science, Literature, or the fine Arts, for instruction, the diffusion of useful knowledge, the foundation or maintenance of Libraries or Reading-rooms for general use among the Members or open to the public, or public Museums and Galleries of paintings and other works of Art, Collections of Natural History, Mechanical and Philosophical Inventions, Instruments, or Designs.

ACT No. XXII OF 1860.

(*Received the assent of the Governor-General on the 21st May 1860*).

1. Certain tracts removed from the operation of the General Regulations and Acts. Proviso.

2. Administration of justice and collection of Revenue vested in Officers subject to the control of the Lieutenant Governor of Bengal.

3. Appeals.

4. Reference to the Sudder Court.

5. Place of imprisonment or transportation.
6. Questions of disputed boundary to be determined by Commissioner of Chittagong.
7. Commencement of Act.

An Act to remove certain tracts on the Eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts.

WHEREAS it is expedient to remove the Hilly and Forest tracts of country situated on the Eastern border of the District of Chittagong from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts and Offices of that District, under the General Regulations and Acts of the Government; It is enacted as follows:—

Certain tracts removed from the operation of the General Regulations and Acts.

I. The tracts of country described in the Schedule to this Act are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the Offices of Revenue constituted by the Regulations of the Bengal Code and the Acts passed by the Governor General of India in Council and the Legislative Council of India, as well as from the system of procedure prescribed for the said Courts and Offices by the Regulations and Acts aforesaid; and no Act hereafter passed by the Legislative Council of India relative to the constitution or procedure of the said Courts and Offices shall be deemed to extend to any part of the said tract, unless the same be specially named therein: provided that, nothing herein contained shall extend to or affect any case now pending in any Court or Office.

Proviso.

II. Repealed by Act X 1870.
III. Repealed by Act X 1870.

Reference to the Sudder Court.

IV. It shall be lawful to the Lieutenant-Governor of Bengal to direct any officer empowered to administer Criminal jurisdiction in or for the tracts aforesaid to refer the sentence passed by him in any class of Criminal trials for the confirmation of the Sudder Court; and no sentence of death, passed by any person competent under the direction of the Lieutenant-Governor to pass such sentence, shall be carried in to execution until it be confirmed by the Sudder Court. In disposing of any trial referred for disposal under this Section, the Sudder Court shall not call for the Futwah of its Law Officer, and shall pass such order as it may deem just and proper, so as that it shall not convict any person acquitted by the referring Officer, or enhance any sentence pronounced by him.

Place of imprisonment or transportation.

V. Any person, liable to be imprisoned in any Civil or Criminal Jail or to be transported beyond sea under any order or sentence passed by any Officer or Court empowered as provided in this Act, may be imprisoned in any Civil or Criminal Jail or transported to any place which the Lieutenant-Governor of Bengal may direct.

VI. Repealed by Act X 1870.
VII. Repealed by Act X 1870

SCHEDULE.*

ACT No. XXIII OF 1860.

(Received the assent of the Governor-General on the 23rd May 1860.)

1. Sections repealed. Rate of duty to be levied on spirits manufactured according to the English method.
2. Removal of spirits from distillery under bond without payment of duty.
3. Imprisonment in default of payment of fine.
4. Indemnity to Collectors &c.
5. Construction of Act.

* Repealed and superseded by Act IV. 1863 of the Bengal Council, which see.

An Act to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.)

WHEREAS it is expedient to increase the rate of duty levied on spirits manufactured at distilleries worked according to the English method, and otherwise to amend Act XXI of 1856; It is enacted as follows :—

Sections repealed.

Rate of duty to be levied on spirits manufactured on the English method.

I. * * * * On and after the 21st January 1860 it shall be lawful for the Government to levy the duty as aforesaid at the rate of three Rupees, and the duty shall be rateably increased as the strength exceeds London proof.*

II. Repealed by Act VI of 1863.

Imprisonment in default of payment of fine.

III. When any person is sentenced to pay any fine or forfeiture under the said Act, such person in default of payment of the same may be imprisoned by order of the Magistrate for any term not exceeding two months when the amount of the fine or forfeiture shall not exceed fifty Rupees, or for any term not exceeding four months when the amount of the fine or forfeiture shall not exceed two hundred Rupees, or for any term not exceeding six months when the amount of the fine or forfeiture shall exceed two hundred Rupees: but in any case the imprisonment shall determine upon the payment of the fine or forfeiture adjudged.

Indemnity to Collectors, etc.

IV. Every Collector or other officer is hereby indemnified for any thing done on and after the said 21st of January 1860 in collecting or enforcing the duty leviable under the 1st Section of this Act, or by virtue of any order of Government heretofore made authorizing the levy of any such duty, or in otherwise carrying out this Act; and no action or other proceeding shall be maintained against any such Collector or other officer in respect of any thing so done.

Construction of Act.

V. This Act and Act XXI of 1856 as hereby amended shall be read as one Act.

ACT No. XXIV. OF 1860.

(Received the assent of the Governor-General on the 23rd May 1860.)

1. Part of Stat. 58 Geo. III, c. 84 repealed.

An Act for the solemnization of Marriages in India by ordained Ministers of the Church of Scotland.

WHEREAS by an Act of Parliament passed in the 58th year of the reign of King George the 3rd, entitled "An Act to remove doubts as to the validity of certain Marriages had and solemnized within the British Territories in India," it was declared and enacted (amongst other things) that from and after the 31st day of December then next ensuing all marriages between persons, both or one of such persons being members or member of, or holding communion with the Church of Scotland, and making a declaration to the effect thereinafter mentioned, which marriages should be had and solemnized within the British territories in India by ordained Ministers of the Church of Scotland as by law established, and appointed by the United Company of Merchants of England trading to the East Indies to officiate as Chaplains within the said territories, should be, and should be adjudged, esteemed, and taken to be of the same, and no other force and effect, as if such marriages were had and solemnized by Clergymen of the Church of England, according to the rites and ceremonies of the Church of England: and whereas it is expedient that so much of the said Act of Parliament as requires ordained Ministers of the Church of Scotland celebrating such marriages to be also persons appointed to officiate as Chaplains within the said territories, should cease to have effect; it is enacted as follows :—

Part of Stat. 58 Geo. III, c. 84 repealed.

I. So much of the said Act of Parliament as requires that the ordained Ministers of the Church of Scotland as by law established therein referred to should be persons appointed to officiate as Chaplains within the said territories, is hereby repealed.

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* The portion of this Section omitted has been repealed by Act XIV of 1870.

ACT No. XXV OF 1860. *

(Received the assent of the Governor General on the 23rd May 1860.)

1. Port-due chargeable on sea-going vessels of ten tons and upwards entering the Port.
2. Rate of Port-due on vessels compelled by stress of weather to enter Port.
3. No Port-due on vessels compelled by stress of weather to re-enter Port.
4. No vessels to pay the Port-due oftener than once in sixty days.
5. Commencement of Act. Rates of Port-dues to be published. No Port-due to be levied except under this Act.
6. Act to be read as part of Act XXII of 1855.

An Act for the levy of Port-dues in the Port of Bassein.

WHEREAS it is necessary to fix the amount of the Port-dues to be hereafter levied and taken in the Port of Bassein in accordance with the provisions of Act XXII of 1855; It is enacted as follows :—

Port-due, chargeable on sea-going vessels of ten tons and upwards entering the Port.

I. A Port-due, at a rate not exceeding the rate of four annas per every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards which shall enter the said Port.

Rate of Port-due on vessels driven by stress of weather &c. to enter Port.

II. When any vessel enters the said Port, being driven in by stress of weather, or in consequence of having sustained any damage or of any other reason, but does not discharge or take in any cargo or passenger therein (with the exception of such un-shipment and re-shipment as may be necessary for the purpose of repair), the Port-due chargeable in respect of such vessel shall be a rate equal to one half the rate chargeable in respect of other vessels.

No Port-due on vessels compelled by stress of weather to re-enter Port.

III. Provided that, when any vessel having left the said Port is compelled to re-enter it by stress of weather or in consequence of having sustained any damage, no Port-due shall be chargeable in respect of such vessel.

No vessel to pay Port-due oftener than once in 60 days.

IV. No vessel shall be required to pay the Port-due chargeable under this Act oftener than once in sixty days.

No Port-due to be levied except under Act.

V. * * * * * no Port-due shall be levied at the said Port except under the authority of Act XXII of 1855 and of this Act.†

Act to be read as part of Act XXII of 1855.

VI. This Act shall be read with and taken as a part of Act XXII of 1855.

ACT No. XXVII OF 1860.

(Received the assent of the Governor-General on the 25th June 1860.)

1. Acts repealed.
2. No debt recoverable without a certificate.
3. Certificate how to be obtained.
4. Effect of certificate.
5. Court may take security from grantee of certificate.
6. Sudder Court may suspend certificate granted by District Court, or direct further proceedings. Sudder Court may grant fresh certificate in supersession of the certificate granted by the District Court.
7. Local extent of power given by certificate.
8. Government Securities, Bank-Shares, and shares in Public Companies.
9. Appointment of Trustee in case of disputed succession, Proviso.
10. Appropriation if securities be not settled within two years, Proviso.
11. Effect of certificate granted by trustee.
12. Payments under certificate void by reason of previous certificate.
13. Certificate in respect of property of deceased Hindoos, Mahomedans, &c., void after grant of probate or letters.
14. Certain payments under certificate granted after grant of probate or letters, protected.
15. Probate or letters void after grant of certificate. Proviso.

* Section I Act XIII 1867 to be read as part of this Act.
† The portion of this Section omitted has been repealed by Act XIV of 1870.

16. *Certain payments under probate or letters, granted after grant of certificate, protected.*
17. *Curators prohibited from exercising certain powers.*
18. *Effect of probates and letters granted to representatives of "British subjects."*
19. *Effect of certificate granted by British Representatives in Foreign States.*
20. *Local extent of power given by such certificates.*
21. *Extension of certificate.*
22. *Security upon extension.*
23. *Act not to apply to British Subjects.*
24. *Interpretation.*

An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons.

WHEREAS it is expedient to consolidate and amend certain Acts now in force which provide greater security for persons paying to the representatives of deceased Hindoos, Mahomedans, and others not usually designated as British subjects, debts which are payable in respect of the estates of such deceased persons, and which facilitate the collection of such debts by removing all doubts as to the legal title to demand and receive the same; It is enacted as follows:—

Acts repealed.

I. Act XX of 1841 *for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*): so much of Act VIII of 1842 as relates to the said Act XX of 1841: Act X of 1851 (*to amend Act XX of* 1841 *for the administration of the personal estate of deceased persons*): and Act VIII of 1854 (*to explain and amend Act X of* 1851 *and Act XX of* 1841) are hereby repealed; except as to certificates granted and acts done under the authority of the said laws before the passing of this Act.

No debt recoverable without a certificate.

II. No debtor of any deceased person shall be compelled in any Court to pay his debt to any person claiming to be entitled to the effects of any deceased person or any part thereof, except on the production of a certificate to be obtained in manner hereinafter mentioned, or of a probate or letters of administration, unless the Court shall be of opinion that payment of the debt is withheld from fraudulent or vexatious motives, and not from any reasonable doubt as to the party entitled.

Certificate how to be obtained.

III. The District Court within the jurisdiction of which the deceased shall have ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, shall have authority to grant a certificate under this Act. The applicant in his petition shall set forth his title. The Court shall issue notice of application, inviting claimants, and fixing a day for hearing the petition, and, upon the appointed day or as soon after as may be convenient, shall determine the right to the certificate and grant the same accordingly.

Effect of certificate.

IV. The certificate of the District Court shall be conclusive of the representative title against all debtors to the deceased, and shall afford full indemnity to all debtors paying their debts to the person in whose favor the certificate has been granted.

Court may take security from the grantee of a certificate.

V. The Court may take such security as it shall think necessary from any person to whom it shall grant a certificate for rendering an account of debts received by him, and for indemnity of persons who may be entitled to the whole or any part of the monies received by virtue of such certificate whose right to recover the same by regular suit against the holder of the certificate is not affected by this Act.

Sudder Court may suspend any certificate granted by a District Court or direct further proceedings.

Or grant fresh certificate in supersession of the certificate granted by the District Court.

VI. The granting of such certificate may be suspended by an appeal to the Sudder Court, which Court may declare the party to whom the certificate should be granted, or may direct such further proceedings for the investigation of the title as it shall think fit. The Court may also, upon petition, after a certificate shall have been granted by the District Court, grant a fresh certificate in supersession of the certificate granted by the District Court. Such fresh certificate shall not affect any payments made to the person to whom any former certificate may have been granted, without notice that the same has been superseded, but shall entitle the person named therein to receive all monies that may have been recovered under the first certificate from the person to whom the same may have been granted.

Local extent of power given by certificate.

VII. Every certificate shall give authority to the person to whom the same is granted throughout the Presidency within which the same is granted, and no certificate subsequently granted in respect of the same property shall be valid or effectual, except as hereinafter mentioned.

Government Securities, Bank-Shares, and

VIII. If the estate of the deceased shall include any Government Securities or Bank-Shares, or any shares in any public Company, the certificate may

empower the person certified as aforesaid to receive interest or dividends thereon, or on any of them, or to negotiate the same or any of them; in such case the certificate shall describe the securities and shares in respect of which such powers are given, and such powers shall not be vested by the certificate except by express words.

Shares in Public Companies.

IX. In the case of disputes among persons claiming to be jointly entitled to be proprietors of any Government Securities as the representatives of any deceased person, the District Court, whenever sufficient cause shall be shown, and on the request of any such claimant, may, so far as concerns the said securities, grant a certificate under this Act to such person as shall be from time to time appointed by the local Government to act as trustee under this Section, and shall specify in such certificate the several persons appearing to him to be such proprietors and their several shares; and the said trustee by virtue of such certificate shall be entitled to receive and give discharges for the interest accruing due on such securities, and shall account for and pay the sum to the several persons specified in the certificate, to be thereunto entitled, according to the shares therein set forth, and shall be empowered to act in all other respects concerning the said securities as agent for such persons, and shall be entitled to receive such commission, not exceeding one per centum, on the sums received and paid by him, as the local Government shall think fit. Provided nevertheless, that the right of any other person to recover the whole or any part of the monies so paid by regular suit against all or any of the persons to whom the same have been paid, shall not be affected by this Act.

Appointment of Trustee in case of disputed succession.

Proviso.

X. If any such disputes among persons claiming to be proprietors of Government Securities are not ended within two years from the date of the certificate granted under the last preceding Section, the said trustee may apportion the principal sum of the said securities rateably among the parties appearing from the certificate to be proprietors thereof, and may apply for and receive new securities from the proper officer appointed to issue the same in the respective names of the several parties certified to be entitled thereto; provided that such new securities shall be issued only according to the rules in use for the regulation and issue of such Government Securities, and the receipt of the said trustee for such new securities, by endorsement on the old securities or otherwise, shall be a legal discharge to the Government against the disputing parties claiming to be entitled to the several amounts for which such securities shall be issued. Provided always that, if the amount of any Government Securities in dispute, or any part thereof, shall not be sufficient to admit of their rateable division according to the rules applicable to the issue of such securities, the said trustee may sell and dispose of the disputed securities, or such part as shall be necessary under this provision, and apportion the proceeds thereof among the parties entitled to receive the same.

Appropriation of securities, if not settled within two years.

Proviso.

XI. Every certificate granted to the trustee appointed under Section IX shall be taken to supersede and annul any previous certificate so far as such previous certificate relates to the said Government Securities.

Effect of certificate granted by trustee.

XII. When a certificate shall have been granted, in cases in which such certificate would be valid but for the previous grant of a certificate, all payments made to the person holding the latter certificate in ignorance of the grant of the previous certificate, shall be held good against claims under such previous certificate.

Payments under certificate void by reason of previous certificate.

XIII. With regard to the property of a deceased Hindoo, Mahomedan, or other person not usually designated by the term "British subject," no certificate in respect of any such property shall be valid if made after a probate or letters of administration granted in respect of the same, provided assets belonging to the deceased were at the time of his death within the local jurisdiction of the Court granting the probate or letters of administration.

Certificate in respect of property of deceased Hindoos, Mahomedans, &c., void after grant of probate or letters.

XIV. Where a certificate shall have been granted, in cases in which such certificate would be valid but for a probate or letters of administration previously granted, all payments made to the person holding the certificate in ignorance of the previous granting of the probate or letters of administration, shall be held good against claims under the probate or letters of administration so previously granted.

Certain payments under certificate granted after grant of probate or letters, protected.

XV. No probate or letters of administration shall be valid for the purpose of the recovery of debts or for the security of debtors, after a certificate granted in respect of the same property for which such probate or letters of administration shall have been granted, provided assets belonging to the deceased were at the time of his death within the Jurisdiction of the Court granting such certificate.

Probate or letters void after grant of certificate.

Proviso.

XVI. Where probate or letters of administration may have been granted in cases in which such probate or letters of administration would be valid but for the previous grant of a certificate, all payments made in ignorance of the pre-

Certain payments under probate or letters, granted after

grant of certificate protected.

vious grant of the certificate shall be held good against claims under such previous certificate.

Curators not to exercise certain powers.

XVII. Curators appointed under Act XIX of 1841 who may be invested with certain powers which are conferred on persons obtaining certificates under his Act, shall not exercise any powers which, but for that Act, would lawfully belong to persons obtaining certificates, or to executors or administrators where a certificate, probate, or letters of administration has been actually obtained ; but all persons who may have paid debts or rents to a curator authorized by a Court to receive the same shall be indemnified, and the curator shall be responsible for the payment of the same to the person who has obtained a certificate, the executor or administrator as the case may be.

Effects of probates and letters granted to representatives of "British subjects."

XVIII. All probates and letters of administration granted by any Supreme Court of Judicature in cases in which any assets belonging to deceased persons were at the time of their deaths within the local jurisdiction of the Court granting the probate or letters of administration, shall have the effect of probate and letters of adminstration granted in respect of the property of British subjects. but for the purpose of the recovery of debts only and the security of debtors paying the same, except so far as is in this Act Provided.

Effect of certificates granted by British representatives in Foreign States.

XIX. A certificate of administration granted by the British representative accredited to any Foreign Prince or State shall, as regards the residents within the territories of such Prince or state, have the same effect in respect to Government Securities as a certificate granted to a Native subject of Her Majesty under the provisions hereinbefore contained.

Local extent of power given by such certificates.

XX. Every certificate of administration granted under the last preceding Section shall, as regards the Government Securities, give authority to the person to whom the same shall be granted throughout the British territories in India; and have the same effect throughout the said territories as a certificate granted under Section VII of this Act has within the Presidency within which the same is granted.

Extension of certificates.

XXI. Any Court or Officer authorized to grant a certificate may from time to time extend the same to any Government Security or Bank share not originally specified therein, and every such extension shall have the same effect as if the Government Security or Bank share to which the certificate shall be extended had been originally specified therein.

Security upon extension.

XXXII. Upon the extension of a certificate, security may be required in the same manner as upon the original grant of a certificate.

Act not to apply to British subjects.

XXIII. Nothing in this Act contained shall be held to extend to the property of any person usually designated as a British subject.

Interpretation.

XXIV. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The words "District Court" shall mean the principal Civil Court of original jurisdiction of a Zillah or District.

The words "Sudder Court" shall be deemed to include the highest Civil Court of Appeal in any part of the British territories in India not subject to the control and superintendence of a Sudder Court.

ACT No. XXX OF 1860.

(Received the assent of the Governor-General on the 5th July 1860.)

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1. Koonch and Calpee removed from the operation of the general Regulations.

2. Suits and proceedings pending at the passing of the Act.

3. Suits determined before the passing of this Act, but which may be remanded by an Appellate Court.

4. Appeals or proceedings pending before the Sudder Court or Sudder Board. Application for execution of decrees or orders in pending suits or proceedings.

5. New appeals from decrees or orders passed before the passing of this Act.

An Act to remove the Pergunnahs of Koonch and Calpee in Zillah Jaloun from the operation of the general Regulations.

WHEREAS the Zillah of Jaloun, with the exception of the Pergunnahs of Koonch and Calpee, has never been brought under the operation of the general Regulations; and whereas it is expedient that those Pergunnahs should, for the sake of uniformity and public convenience, be administered on the same system as prevails in the rest of the Zillah; It is enacted as follows :—

Koonch and Calpee removed from the operation of the general Regulations.

I. Regulation VIII. 1805 of the Bengal Code *(for extending to the conquered Provinces situated within the Dooab, and on the right bank of the river Jumma, and to the Territory ceded to the Honorable the English East India Company in Bundelkund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations)*, in so far as it relates to the Pergunnahs of Koonch and Calpee in the Zellah of Jaloun, is hereby repealed, and the said Pergunnahs shall be subject to the same laws as are now or may hereafter be in force in the said Zillah.

Suits and proceedings pending at the passing of the Act.

II. All suits and proceedings which, at the time of the passing of this Act, shall be pending in any Court or before any Officer in the said Pergunnahs, shall be heard and determined in the same manner as if the said Pergunnahs had never been brought under the operation of the general Regulations.

Suits determined before the passing of this Act, but which may be remanded by an Appellate Court.

III. Any suit which, before the passing of this Act, had been determined and which hath been or shall be remanded by any Appellate Court, shall be tried before the Court which, for the time being, would be competent to try such a suit if instituted after the passing of this Act.

Appeals or proceedings pending before the Sudder Court or Sudder Board.

Applications for execution of decrees or orders in pending suits or proceedings.

IV. All appeals or proceedings now pending in the Court of Sudder Dewanny Adawlut or in the Court of Nizamut Adawlut or before the Sudder Board of Revenue for the North-Western Provinces, shall be determined by such Court or Board in the same manner as if this Act had not been passed; and all applications for executions of decrees or orders which, but for the passing of this Act, would have been made to any Court or officer existing at the period abovementioned, shall be made to the Court or officer that would have had jurisdiction in respect of the matter in dispute, had the suit or proceeding been instituted after the passing of this Act.

New appeals from decrees or orders passed before the passing of this Act.

V. All appeals from decrees or orders passed before the passing of this Act shall be received, heard, and determined by the Courts or Officers who would have had Jurisdiction over such appeals, had the decrees or orders to which they relate been passed after the passing of this Act.

ACT No. XXXI OF 1860.

(Received the assent of the Governor-General on the 17th July 1860.)

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1. *Act XXVIII of 1857 continued in force till first October 1860.*
2. *Manufacture of cannon, &c. without authority of Government prohibited.*
3. *Penalty for possession of cannon, &c., without permission. Exception.*
4. *Permission to possess cannon, &c., to be in writing, and to specify number permitted to be possessed.*
5. *Manufacturing or dealing in arms and ammunition without license prohibited. Penalty.*
6. *Specification of arms referred to in Section V.*
7. *Licenses by whom to be granted.*
8. *Form &c. of license.*
9. *Licensee to affix a board in a conspicuous part of his shop.*
10. *Penalty for omission.*
11. *Penalty for putting up a board without a license.*
12. *Duration of license.*
13. *Penalty for knowingly purchasing arms or ammunition from an unlicensed person.*
14. *Licensed manufacturers or dealers to enter in a book account of stock in trade, names of purchasers, &c. Inspection of book.*
15. *Magistrate or other Officer may inspect dealers' premises.*

16. Revocation of license to manufacture or deal in arms or ammunition.
17. Cannon and arms and ammunition not to be imported without license.
18. Penalty for importation without license.
19. Importation of arms and ammunition for private use.
20. Seizure and detention of sulphur by Government.
21. Exception.
22. Government may prohibit transport of arms, ammunition, military stores, &c.
23. Penalty for prohibited transport.
24. Provisions of two preceding Sections not to apply to Districts not ordered or liable to be disarmed under Section XXXII.
25. Persons conveying arms, ammunition, &c. under suspicious circumstances may be apprehended without warrants. Procedure if apprehended by other than Magistrates, &c.
26. Penalty for going armed or carrying arms without a license.
27. Exemptions. Commissioned, Non-Commissioned, and Warrant Officers, Soldiers and Sailors. Volunteers. Police and Revenue Officers. Other persons.
28. Grant and revocation or suspension of licenses to carry arms.
29. Form of licenses.
30. License to state name of grantee, and number of followers to whom it is to apply.
31. Search and seizure of arms and ammunition in certain cases.
32. Executive Government may order any District or place to be disarmed.
33. Penalty for refusing to produce or for concealing arms, &c., searched for.
34. Penalty for assaulting or resisting any person in the execution of any power vested in him by this Act.
35. Cognizance of offence.
36. District in which certain offences shall be tried.
37. Magistrate may refer offences punishable with fine to his Assistants for trial.
38. Local Government may authorize Assistants to exercise such powers without reference by Magistrate.
39. Magistrate may call for any case pending before such Assistant.
40. Jurisdiction over British subjects committing certain offences beyond the limits of Supreme Court.
41. Summary jurisdiction in respect of certain offences committed within the limits of Supreme Court.
42. Conviction to be quashed on merits only.
43. All other offences committed within limits of Supreme Court punishable by such Court.
44. Levy of forfeiture and penalties by distress.
45. Procedure until return is made to warrant of distress.
46. Imprisonment, if distress not sufficient.
47. Levy of fines from European British subjects.
48. Rewards to informers.
49. Notice and limitation of suits.
50. Parts of District may be withdrawn from the operation of the Act and again made subject to it.
51. Act not intended to alter or affect any other law relating to licenses.
52. Award of hard labor not commutable to fine.
53. Grant of licenses in Presidency Towns.
54. Interpretation of the word "India."
55. Commencement and duration of Act.

An Act relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases.

WHEREAS it is expedient to regulate the manufacture, importation, and sale of Arms and Ammunition and the right to keep and use the same, and also to give power of disarming Districts and places in certain cases; It is enacted as follows :—

I. Repealed by Act XIV of 1870.

Manufacture of cannon, &c., without authority of Government, prohibited. Penalty.

II. No person in India, unless authorized by Government, shall manufacture or assist in manufacturing any cannon, howitzer, or mortar, and whoever not being so authorized shall manufacture or assist in manufacturing any cannon, howitzer, or mortar, shall be liable to a fine not exceeding one thousand Rupees, and to imprisonment with or without hard labor for a period not exceeding three years.

III. If any person in India shall, without the permission of the local Government, have in his possession any cannon, howitzer, or mortar, except in the course of his duty as a public Officer of Government, he shall be liable to a fine not exceeding Five Hundred Rupees for every such cannon, howitzer, or mortar, and in default of payment thereof may be imprisoned with or without hard labor for a period not exceeding one year. The provisions of this Section shall not extend to any cannon, howitzer, or mortar, forming part of the ordinary armament of any ship or vessel.

Penalty for possession of cannon, &c., without permission.

Exception.

IV. Whenever the local Government shall permit any person to possess any cannon, howitzer, or mortar, such permission shall be in writing and signed by the Secretary to the Government, and shall specify the number of cannon, howitzers, or mortars, permitted to be possessed by such person. A fee of Fifty Rupees shall be paid on the delivery of such written permission.

Permission to possess cannon, &c., to be in writing, and to specify number permitted to be possessed.

V. No person shall manufacture, repair, or sell, or keep or expose for sale, any arms of the description hereinafter mentioned, or shall manufacture or sell, or keep or expose for sale, percussion caps, sulphur, gunpowder, or other ammunition, except under a license to manufacture or deal in arms or percussion caps, sulphur, gunpowder, or other ammunition, as the case may be, and any person who shall manufacture, repair, sell, or keep or expose for sale, any of such arms, or any percussion caps, sulphur, gunpowder, or other ammunition whithout such license as aforesaid, contrary to any of the conditions contained in such license, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding two years, or to both fine and imprisonment, and all arms, percussion caps, sulphur, gunpowder, or other ammunition belonging to the offender shall be forfeited, if the Court or Officer before whom the offender is convicted shall so adjudge.

Manufacturing or dealing in arms and ammunition, without license prohibited.

Penalty.

VI. The following are the arms referred to in Section V. namely, fire-arms bayonet, sword, dagger, spear, and spear head.

Specification of arms referred to in Section V.

VII. Licenses to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition may be granted by a Magistrate, or by an Officer authorized by the Governor-General of India in Council or by the Executive Government to grant such licenses.

License by whom to be granted.

VIII. Licences granted under the last preceding Section shall be in the form prescribed by the Governor-General of India in Council, and shall be engrossed on a stamp paper of the value of ten Rupees. The stamp paper shall be furnished by the person applying for the license. A separate license shall be taken out for the sale of sulphur.

Form, &c. of license.

IX. Every person to whom such license shall be granted shall affix a board in a conspicuous part of his shop or usual place of business, and shall cause to be painted thereon in large letters in the vernacular of the District the words "Licensed to manufacture or deal in arms or percussion caps, sulphur, gunpowder, or other ammunition," as the case may be.

Licensee to affix a board in a conspicuous part of his shop.

X. If any person to whom such license shall be granted shall omit to put up a board inscribed as above in a conspicuous part of his shop or usual place of business, he shall be liable to a fine not exceeding One Hundred Rupees.

Penalty for omission.

XI. If any person, to whom such license shall not have been granted in the manner prescribed, shall put up such board as aforesaid in his shop or usual place of business, he shall be liable to a fine not exceeding One Hundred Rupees.

Penalty for putting up a board without a license.

XII. Licences granted under Section VII of this Act shall be in force for one year from the date thereof.

Duration of license.

XIII. Any person knowingly purchasing arms of the description mentioned in Section VI or any purcussion caps, sulphur, gunpowder, or other ammunition from any person not Licensed, shall be liable to a fine not exceeding One Hundred Rupees.

Penalty for knowingly purchasing arms or ammunition from an unlicensed person.

XIV. Every person licensed to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition, shall enter in a book to be kept by him for that purpose, an account of all the stock-in-trade which he may from time to time have in his possession or under his control, and also the name and address of every purchaser of arms, percussion caps, sulphur, gunpowder, or other ammunition sold by him, together with the nature, description, and quantity of such arms, percussion caps, sulphur, gunpowder, or other ammunition. Such book shall be open at all times to inspection by the Magistrate or other Officer duly authorized by Government in that behalf, by whom copies may be taken of all entries therein contained. If any such person shall omit or fail duly to keep such book, or to make therein all such entries as are hereby required, or if any person shall prevent or obstruct the inspection of such book or shall make a false entry therein, he shall be liable for every such offence to a fine not exceeding Five Hundred Rupees, in addition to double the value of any arms, percussion caps,

Licensed Manufacturers or dealers to enter in a book an account of stock-in-trade, names of purchasers, &c.

Inspection of book.

sulphur, gunpowder, or other ammunition sold of which he shall fail to make such entry or respecting which he shall make a false entry; and if the offender be licensed to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition, he shall also forfeit his license if the Magistrate shall so adjudge.

Magistrate or other officer may inspect dealers premises.

XV. The Magistrate or other Officer authorized by Government as aforesaid may at any time enter the premises in which arms, percussion caps, sulphur, gunpowder, or other ammunition shall be manufactured or kept by any licensed manufacturer or dealer in arms or percussion caps, sulphur, gunpowder or other ammunition, in order to inspect the stock-in-trade of such manufacturer or dealer, and if any such manufacturer or dealer shall intentionally conceal from such Magistrate or other officer as aforesaid any part of his stock-in-trade, or shall wilfully refuse to point out where the same is kept, he shall be liable to a fine not exceeding Five Hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding two years, or to both fine and imprisonment, and any arms, percussion caps, sulphur, gunpowder or other ammunition belonging to such person may be seized, and shall be confiscated if the Magistrate shall so adjudge.

Revocation of license.

XVI. Any license granted under the provisions of Section VII may be granted subject to such conditions as shall be thought necessary, and may be revoked or suspended by the officer authorized to grant such licenses whenever he may think fit.

Cannon &c. and ammunition not to be imported without license.

XVII. No cannon, howitzer, or mortar, and no arms, percussion caps, sulphur, saltpetre, gunpowder or other ammunition, shall be imported either by sea or by land into any part of the territories in the possession and under the Government of India, except under a license from the Governor-General of India in Council or from some officer authorized in that behalf by the Governor-General of India in Council.

Penalty for importation without license.

XVIII. If any person shall import or attempt to import without such license, either by sea or by land into any part of the said territories, any cannon, howitzer, or mortar, or any arms, percussion caps, sulphur, saltpetre, gunpowder, or other ammunition, or shall aid or assist in such importation or in such attempt to import, or shall knowingly conceal or assist in concealing any cannon, howitzer, or mortar, or any arms, percussion caps, sulphur, saltpetre, gunpowder, or other ammunition, imported without such license, he shall be liable to imprisonment with or without hard labor for any term not exceeding three years, and also to a fine not exceeding One Thousand Rupees, and the articles so imported shall be confiscated if the Magistrate shall so adjudge.

Importation of arms and ammunition for private use.

XIX. The provisions of the last two preceding Sections shall not extend to arms, percussion caps, gunpowder, and other ammunition imported by any person in reasonable quantities for his own private use; but the Collector of Customs may at any time detain any such articles, if he shall think it necessary, until he shall receive the orders of Government.

Seizure and detention of sulphur by Government.

XX. The Governor-General of India in Council or the local Government may at any time seize all sulphur in the possession of any person and detain the same for such time as they may deem necessary for the public safety.

Exception.

XXI. Nothing in this Act shall apply to sulphur kept or sold in reasonable quantities for medical purposes.

Government may prohibit transport of arms, ammunition, military stores, etc.

XXII. The Governor-General of India in Council may by order prohibit the transport of any arms, military stores, lead, sulphur, saltpetre, gunpowder, or other ammunition, or any particular description of arms, ammunition, or military stores from one part of India to another, or the transport thereof in any particular direction to be specified in the order, or prohibit the transport thereof except according to such rules and conditions as may be specified in the order, and the local Government of any Presidency or place shall have the like power within the territories under its Government.

Penalty for prohibited transport.

XXIII. If any person shall transport or cause to be transported or shall attempt to transport or cause to be transported, or shall aid in transporting any arms, military stores, lead, sulphur, saltpetre, gunpowder, or other ammunition, contrary to such order, or to the rules and conditions specified therein, he shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding three years, or to both fine and imprisonment, and the articles transported or attempted to be transported shall be confiscated. If any person shall by concealment or other device transport or cause to be transported, or attempt to transport or cause to be transported such arms, military stores, lead, sulphur, saltpetre, gunpowder, or other ammunition, he shall in addition to the fine hereby provided, be liable upon conviction, to imprisonment with or without hard labor for a term not exceeding seven years.

Provisions of two preceding Sections

XXIV. Nothing in the last two preceding Sections shall extend to arms, percussion caps, gunpowder, and other ammunition transported by any person.

in reasonable quantities for his own private use, in any District or place not ordered or liable to be disarmed under Section XXXII of this Act.

not to apply to Districts not ordered or liable to be disarmed under Section XXXII.

XXV. If any person shall be found carrying or conveying any arms, military stores, percussion caps, sulphur, gunpowder, or other ammunition, in such a manner or under such circumstances as to afford just grounds of suspicion that the same are being carried by such person with intent to use the same, or that the same may be used for any unlawful purpose dangerous to the public peace, it shall be lawful for any Magistrate, Deputy Magistrate, or Assistant to a Magistrate, or Police Officer or for any other person to apprehend without warrant the person so carrying or conveying such arms, military stores, percussion caps, sulphur, gunpowder, or other ammunition, and to detain such person in custody in order that he may be dealt with according to law. If any person be apprehended by a person not being a Magistrate, Deputy Magistrate, or Assistant to a Magistrate, or Police Officer, he shall be delivered over as soon as possible to a Police Officer, and all persons apprehended by or delivered to a Police Officer under the provisions of this Section shall be carried before a Magistrate or other Officer competent by law to punish him for the offence or to commit him for trial.

Persons conveying arms, ammunition, etc., under suspicious circumstances may be apprehended without warrant.

Procedure if apprehended by other than Magistrates, etc.

XXVI. If any person shall go armed with or carry any arms of the description mentioned in Section VI. of this Act without having obtained a license from a Magistrate or other Officer authorized by the Governor-General of India in Council or the local Government authorizing him to carry arms, he shall be liable to be disarmed by any Magistrate, Joint Magistrate, or Deputy Magistrate, or Assistant to a Magistrate, or by a Police Officer, if in the judgment of such Magistrate or other officer as aforesaid it is dangerous to the public peace to allow such person to go armed or to carry arms.

Penalty for going armed or carrying arms without a license.

XXVII. The provisions of the last two Sections do not apply to—

Exemptions.

Officers, Non-Commissioned Officers, Warrant Officers, Soldiers, and Sailors in the Military or Naval Service of Her Majesty, in respect of arms and ammunition kept by them for use in the public service.

Officers, Soldiers and Sailors.

Members of Volunteer Corps in respect of such arms and ammunition.

Volunteers.

Police and Revenue Officers and other persons in respect of arms and ammunition furnished by Government for use in the public service, or provided by themselves with the sanction of Government for such use.

Police and Revenue Officers.

Such other persons as the local Government may think fit to exempt from such provisions.*

Other persons.

XXVIII. Licenses to carry arms may be granted by any Magistrate or other officer specially authorized by the Governor-General of India in Council or the local Government to grant such licenses, and may be revoked or suspended by any officer authorized to grant such licenses, whenever he may think fit.

The grant and revocation or suspension licenses.

XXIX. The license shall be in the form prescribed by the Governor-General of India in Council.

Form of license.

XXX. The license shall state whether its operation is limited to the person in whose favor it is granted and whom it shall mention by name, or whether it extends to any of his followers. In the latter case the number of the followers of such person licensed to carry arms, and the number and description of arms to be carried by each of such followers, shall be specified.†

License to state name of grantee, and number of followers to whom it is to apply.

XXXI. Whenever a Magistrate shall have reason to believe that any person residing within the limits of his jurisdiction has in his possession any arms of the description mentioned in Section VI of this Act. or percussion caps, sulphur, gunpowder, or other ammunition for any unlawful purpose, or that such person cannot in the judgment of the Magistrate be left in the possession of any such arms, percussion caps, sulphur, gunpowder, or other ammunition without danger to the public peace, it shall be lawful for such Magistrate, having first recorded the grounds of his belief, to cause a search to be made of the house or premises occupied by such person or on which the Magistrate may have reason to believe such arms, percussion caps, sulphur, gunpowder, or other ammunition are to be found, and to seize and to detain the same in safe custody for such time as he may deem necessary. The search in such case shall be conducted by or in the presence of the Magistrate or by or in the presence of a Joint or Deputy Magistrate, or a European Assistant, or by or in the presence of some European Officer, Civil or Military, to be specially empowered by Government.

Search for and seizure of arms and ammunition in certain cases.

XXXII. *Clause* I. It shall be lawful for the Governor-General of India in Council or for the Executive Government of any presidency or for any Lieuten-

Government may order any District or place to be disarmed.

* See Act VI. 1866.

† Regarding persons authorised to grant licenses mentioned in Sections 26, 28, 29, 30 see Act VI. 1866.

ant-Governor, or with the sanction of the Governor-General in Council for the Chief Commissioner or Commissioner of any Province, District, or place subject to their administration respectively, whenever it shall appear necessary for the public safety, to order that any Province, District, or place shall be disarmed.

Clause 2. In every such Province, District, or place, as well as in any Province, or District, or place in which an order for a general search for arms has been issued and is still in operation under Act XXVIII of 1857, it shall not be lawful for any person to have in his possession any arms of the description mentioned in Section VI of this Act, or any percussion caps, sulphur, gunpowder, or other ammunition without a license.

Penalty for refusing to produce or for concealing arms, etc., searched for.

XXXIII. If on any such search being made under the provisions of either of the last two Sections, any person having in his possession or power any such arms, percussion caps, sulphur, gunpowder, or other ammunition or knowing where such arms, percussion caps sulphur, gunpowder or other ammunition are concealed, shall refuse to produce or point out the same to the Officer making the search or if any person shall intentionally conceal or attempt to conceal any such arms percussions caps, sulphur, gunpowder, or other ammunition, such person may be apprehended without warrant, and shall be liable to imprisonment with or without hard labor for a term not exceeding two years, and also to a fine not exceeding one thousand Rupees.

Resistance to the execution of any power under this Act.

XXXIV. Whoever assults or resists, or aids or assists any person in assaulting or resisting any person in the execution of any power vested in him by this Act, shall be liable to a fine not exceeding Two Hundred Rupees, or to imprisonment with or without hard labor for any term not exceeding six calendar months, or to both fine and imprisonment.

Cognizance of offence.

XXXV. Except as otherwise provided, all offences under this Act may be tried by any Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, unless the period of imprisonment to which the offender may be liable exceed that which the Magistrate, Joint Magistrate, or other officer as aforesaid is competent to award under the laws for the time being in force in the Presidency or place in which such Magistrate, Joint Magistrate, or other officer as aforesaid is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Magistrate, Joint Magistrate, or other officer as aforesaid, the offender shall be committed for trial before the Sessions Judge, if the evidence given before such Magistrate, Joint Magistrate, or other officer as aforesaid shall appear to such Magistrate, Joint Magistrate, or other officer sufficient for the conviction of the accused.

District in which certain offences shall be tried.

XXXVI. Except as aforesaid, all offences declared to be punishable under this Act with fine, or fine and imprisonment, may be tried in the District or place in which the offence was committed, or in which the person charged with the same is apprehended.

Magistrate may refer offences punishable with fine only to his Assistants.

XXXVII. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants, and in such case every such Assistant may exercise all the powers vested in a Magistrate by any law for the time being in force, subject to all the rules applicable to criminal cases deputed to such Assistant acting judicially.

Government may authorize Assistants to try such cases without reference by Magistrate.

XXXVIII. The local Government may give general authority to any such Assistant to exercise, without reference by a Magistrate, any of the powers which they are hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant within one month from the date of conviction.

Magistrate may call for any case pending before Assistant.

XXXIX. A Magistrate, may at any time call from any of this Assistants, any case pending before such Assistants.

Jurisdiction over British subjects committing certain offences beyond the limits of Supreme Court.

XL. If any offence which by this Act is declared to be punishable with fine and imprisonment, or imprisonment only, shall be committed by a European British subject beyond the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, the offender shall be liable, upon conviction before one of the said Supreme Court of Judicature, to the punishment to which by this Act the offender is declared to be liable upon conviction.

Summary jurisdiction as to certain offences committed within the limits of the Supreme Court.

XLI. If any offence which by this Act is declared to be punishable with fine, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the jurisdiction of any Court of Judicature established by Royal Charter, such offence shall be punishable upon summary conviction by any Police Magistrate of the Presidency Town or Station in which such Court is held.

Conviction to be quashed on merits only.

XLII. No conviction, order, or judgment under the last preceding Section shall be quashed for error of form or procedure, but only on the merits; and

it shall not be necessary to state on the face of the conviction, order, or judgment the evidence on which it proceeds, but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment in obedience to any writ of *certiorari*, and, if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

All other offences committed within limits of Supreme Court punishable by it.

XLIII. All other offences punishable under this Act which shall be committed within the local limits of any Court of Judicature established by Royal Charter, shall be punishable by such Court.

Forfeitures or penalties to be levied by distress.

XLIV. All forfeitures or penalties imposed under the authority of this Act for offences punishable by any Magistrate of Police or by any Magistrate, or person lawfully exercising the powers of a Magistrate, or Assistant Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant under the hand of any of the above named Officers.

Procedure until return is made to the warrant of distress.

XLV. In case any such forfeitures or penalties shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment, if distress not sufficient.

XLVI. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Levy of fines from European British subjects.

XLVII. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Rewards to informers.

XLVIII. Any fine or penalty levied from any person convicted of an offence under this Act, or any portion of such fine or penalty, may be awarded to the person on whose information the conviction shall take place.

Notice and limitation of suits.

XLIX. No suit, action, or other proceeding shall be commenced or prosecuted against any person for any thing done in pursuance of this Act without giving to such person a month's previous notice in writing of the intended action and of the cause thereof, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

Parts of District may be withdrawn from the operation of the Act and again made subject to it.

L. It shall be lawful for the Governor-General of India in Council or for the executive Government of any Presidency or for any Lieutenant-Governor, or with the sanction of the Governor-General of India in Council for any Chief Commissioner of any province, from time to time to withdraw from the operation of all or any of the provisions of this Act any part or parts of any District or place: and in like manner, as occasion shall require, to subject the same again to the operation of all or any of the provisions of this Act.

Act not intended to alter or affect any other law relating to licenses.

LI. Nothing in this Act shall be construed to alter or affect the provisions of any law or other Regulation for the time being in force relating to Licenses.

LII. Repealed by Act XIV of 1870.

Grant of licenses in Presidency Towns.

LIII. All licenses which may by this Act be granted by a Magistrate may in the Presidency Towns be granted by a Commissioner of Police.

Meaning of the word "India."

LIV. The word "India" in this Act shall mean the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India."

Commencement and duration of Act.

LV. The first Section of this Act shall take effect from the passing thereof and all the rest of this Act shall take effect from and after the 1st day of October 1860. This Act shall continue in force for five years from the said 1st day of October.*

* Extended to October I. 1866 by Act VI. 1865, and again extended till otherwise ordered by the Governor-General in Council by Act VI. 1866 which repeals Act VI. 1865 and second clause of this Section.—This Section is repealed entirely by Act XIV of 1870.

ACT No. XXXIV OF 1860.

(Received the assent of the Governor-General on the 2nd August 1860.)

1. Certain fines, penalties, &c., imposed since 10th May 1857, to be deeme to have been duly imposed. Proviso.

2. Officers indemnified for certain acts done since 10th May 1857.

An Act to indemnify officers of Government and other persons in respect of fines and contributions levied and acts done by them during the late disturbances.

WHEREAS fines and penalties have been imposed and levied by officers of Government in respect of acts committed during the late disturbances, and whereas assessments and contributions have been made and collected for the reconstruction or repairs of public buildings destroyed or injured during the same period and for other purposes; and whereas it is expedient to indemnify all officers of Government and other persons acting under the authority of officers of Government from any penalties or proceedings to which they may have rendered themselves liable since the 10th day of May 1857, in respect of the said fines, penalties, assessments, and contributions, and of any other acts which may have been done by them, and which have been or shall be ratified by the Executive Government, and to confirm and make valid the levy of the said fines, penalties, assessments, and contributions, and the said acts; It is enacted as follows :—

Certain fines, penalties, etc., imposed since 10th May 1857 to be deemed to have been duly imposed.

I. All fines, penalties, assessments, and contributions imposed since the 10th day of May 1857 in respect of the destruction or injury of Government or other property, or on any other account connected with the late disturbances, by any officer of Government, or by any person acting under the authority of an officer of Government, shall be deemed to have been duly imposed and levied if the same shall have been levied in pursuance of an order of Government or shall have been or shall be ratified by the Executive Government; and all officers of Government and all persons acting under their authority are hereby indemnified and discharged from liability in respect of any such fines, penalties, assessments, and contributions, and levying the same, and no suit or proceeding shall be commenced or prosecuted in respect thereof. Provided that nothing in this Act shall authorize the levy of any fine, penalty, assessment, or contribution not already levied.

Proviso.

Officers indemnified for certain acts done since 10th May 1857.

II. All acts done since the 10th day of May 1857 in connection with the late disturbances by officers of Government, or by persons acting under their authority or otherwise, in pursuance of an order of Government, or which shall have been or shall be ratified by the Executive Government, are hereby confirmed and made valid; and all such officers of Government and persons as aforesaid are hereby indemnified and discharged from liability in respect of such acts.

ACT No. XLV OF 1860.

(Received the assent of the Governor-General on the 6th October 1860.)

THE INDIAN PENAL CODE.

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THE INDIAN PENAL CODE.

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THE INDIAN PENAL CODE.

CHAPTER I.

WHEREAS it is expedient to provide a General Penal Code for British India; It is enacted as follows :—

1. This Act shall be called THE INDIAN PENAL CODE, and shall take effect on and from the 1st day of May 1861 throughout the whole of the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Title and extent of operation of the Code.

2. Every person shall be liable to punishment under this Code, and not otherwise, for every act or omission contrary to the provisions thereof, of which he shall be guilty within the said Territories on or after the said 1st day of May 1861.

Punishment of offences committed within the said territories.

3. Any person liable, by any law passed by the Governor-General of India in Council, to be tried for an offence committed beyond the limits of the said Territories, shall be dealt with according to the provisions of this Code for any act committed beyond the said Territories, in the same manner as if such act had been committed within the said Territories.

Punishment of offences committed beyond, but which by law may be tried within, the Territories.

4. Every servant of the Queen shall be subject to punishment under this Code for every act or omission contrary to the provisions therof, of which he, whilst in such service, shall be guilty on or after the said 1st day of May 1861, within the dominions of any Prince or State in alliance with the Queen, by virtue of any treaty or engagement heretofore entered into with the East India Company or which may have been or may hereafter be made in the name of the Queen by any Government of India.

Punishment of offences committed by a servant of the Queen within a Foreign allied State.

5. Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of the Statute 3 and 4, William IV. Chapter 85, or of any Act of Parliament passed after that Statute in any wise affecting the East India Company, or the said Territories, or the inhabitants thereof; or any of the provisions of any Act for punishing mutiny and desertion of Officers and Soldiers in the service of Her Majesty * * * * * or of any special or local law.

Certain laws not to be affected by this Act.

CHAPTER II.

GENERAL EXPLANATIONS.

6. Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled "General Exceptions," though those exceptions are not repealed in such definition, penal provision, or illustration.

Definitions in the Code to be understood subject to exceptions.

Illustrations.

(*a*) The Sections in this Code, which contain definitions of offences do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(*b*) A, a Police Officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement: for he was bound by law to apprehend Z, and therefore the case falls within the general exception which provides that "nothing is an offence which is done by a person who is bound by law to do it."

7. Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation.

Expression once explained is used in the same sense throughout the Code.

8. The pronoun "he" and its derivatives are used of any person, whether male or female.

Gender.

9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

Number.

10. The word "man" denotes a male human being of any age: the word "woman" denotes a female human being of any age.

"Man." "Woman."

11. The word "person" includes any Company or Association or body of persons, whether incorporated or not.

"Person."

12. The word "public" includes any class of the public or any community.

"Public."

13. The word "Queen" denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.

"Queen."

14. The words "servant of the Queen" denote all officers or servants continued, appointed, or employed in India by or under the authority of the said Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," or by or under the authority of the Government of India or any Government.

"Servant of the Queen."

15. The words "British India" denote the Territories which are or may become vested in Her Majesty by the said Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"British India."

"Government of India."

16. The words "Government of India" denote the Governor-General of India in Council, or, during the absence of the Governor-General of India from his Council, the President in Council, or the Governor-General of India alone, as regards the powers which may be lawfully exercised by them or him respectively.

"Government."

17. The word "Government" denotes the person or persons authorized by law to administer executive Government in any part of British India.

"Presidency."

18. The word "Presidency" denotes the Territories subject to the Government of a Presidency.

"Judge."

19. The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person who is empowered by law to give, in aay legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

Illustrations.

(a) A Collector exercising jurisdiction in a suit under Act X of 1859, is a Judge.

(b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal is a Judge.

(c) A Member of a Punchayet which has power, under Regulation VII. 1816 of the Madras Code, to try and determine suits, is a Judge.

(d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

"Court of Justice."

20. The words "Court of Justice" denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

Illustration.

A Punchayet acting under Regulation VII. 1816 of the Madras Code, having power to try and determine suits, is a Court of Justice.

"Public Servant."

21. The words "public servant" denote a person falling under any of the descriptions hereinafter following, namely :—

First. Every covenanted servant of the Queen ;

Second. Every Commissioned Officer in the Military or Naval Forces of the Queen while serving under the Government of India, or any Government ;

Third. Every Judge ;

Fourth. Every Officer of a Court of Justice whose duty it is, as such Officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties ;

Fifth. Every Juryman, assessor, or member of a Punchayet assisting a Court of Justice or public servant ;

Sixth. Every Arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority ;

Seventh. Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement ;

Eighth. Every Officer of Government whose duty it is, as such Officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health safety, or convenience ;

Ninth. Every Officer whose duty it is, as such Officer, to take, receive, keep, or expend any property on behalf of Government, or to make any survey, assessment, or contract on behalf of Government, or to execute any revenue process, or to investigate, or to report, on any matter affecting the pecuniary interests of Government, or to make, authenticate, or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every Officer in the service or pay of Government, or remunerated by fees or commission for the performance of any public duty ;

Tenth. Every Officer whose duty it is, as such Officer, to take, receive, keep, or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose of any village, town, or district, or to make, authenticate, or keep any document for the ascertaining of the rights of the people of any village, town, or district.

Illustration.

A Municipal Commissioner is a public servant.

Explanation 1. Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2. Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

"Moveable property."

22. The words "moveable property" are intended to include corporeal property of every description, except land and things attached to the earth, or permanently fastened to any thing which is attached to the earth.

"Wrongful gain."

23. "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled.

"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

"Dishonestly."

24. Whoever does any thing with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing "dishonestly."

"Fraudulently."

25. A person is said to do a thing fraudulently if he does that thing with intent to defrud, but not otherwise.

"Reason to believe."

26. A person is said to have "reason to believe" a thing, if he has sufficient cause to believe that thing, but not otherwise.

Property in possession of wife, clerk, or servant.

27. When property is in the possession of a person's wife, clerk, or servant, on account of that person, it is in that person's possession within the meaning of this Code.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this Section.

"Counterfeit."

28. A person is said to "counterfeit," who causes one thing to resemble another thing, intending by means of that resemblance to practice deception, or knowing it to be likely that deception will thereby be practised.

Explanation.—It is not essential to counterfeiting that the imitation should be exact.

"Document."

29. The word "document" denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

Explanation. 1. It is immaterial by what means, or upon what substance the letters, figures, or marks are formed, or whether the evidence is intended for, or may be used in, a Court of Justice, or not.

Illustrations.

A writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A Check upon a Banker is a document.

A power of Attorney is a document.

A Map or Plan which is intended to be used, or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2. Whatever is expressed by means of letters, figures or marks as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures, or marks within the meaning of this Section, although the same may not be actually expressed.

Illustration.

A writes his name on the back of a Bill of Exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage is that the Bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder," or words to that effect, had been written over the signature.

"Valuable security."

30. The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustration.

A writes his name on the back of a Bill of Exchange. As the effect of this endorsement is to transfer the right to the Bill to any person who may become the lawful holder of it, the endorsement is a "valuable security."

"A will."

31. The words "a will" denote any testamentary document.

Words referring to acts include illegal omissions.

32. In every part of this Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

"Act."
"Omission."

33. The word "act" denotes as well a series of acts as a single act: the word "omission" denotes as well as a series of omissions as a single omission.

Each of several persons liable for an act done by all in like manner as if done by him alone.

34. When a criminal act is done by several persons, each of such persons is liable for that act in the same manner as if the act were done by him alone.

When such an act is criminal by reason of its being done with a criminal knowledge or intention.

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention, is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

Effect caused partly by act and partly by omission.

36. Whenever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration.

A intentionally causes Z's death, partly by illegally omitting to give Z food, and partly by beating Z. A has committed murder.

Co-operation by doing one of several acts constituting an offence.

37. When an offence is committed by means of several acts, whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits that offence.

Illustrations.

(a) A and B agree to murder Z by severally, and at different times, giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence though their acts are separate.

(b) A and B are joint Jailors, and as such have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(c) A, a Jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food; in consequence of which Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder; but as A did not co-operate with B, A is guilty only of an attempt to commit murder.

Several persons engaged in the commission of a criminal act may be guilty of different offences.

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration.

A attacks Z under such circumstances of grave provocation that his killing of Z would be only culpable homicide not amounting to murder. B having ill-will towards Z, and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

"Voluntarily."

39. A person is said to cause an effect "voluntarily," when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration.

A sets fire, by night to an inhabited house in a large town, for the purpose of facilitating a robbery, and thus cause the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act; yet if he knew that he was likely to cause death, he has caused death voluntarily.

"Offence."

40. The word "offence" denotes a thing made punishable by this Code.*

"Special Law."

41. A "special law" is a law applicable to a particular subject.

"Local Law."

42. A "local law" is a law applicable only to a particular part of British India.

"Illegal." "Legally bound to do."

43. The word "illegal" is applicable to every thing which is an offence, or which is prohibited by law, or which furnishes ground for a civil action: and a person is said to be "legally bound to do" whatever it is illegal in him to omit.

"Injury."

44. The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation, or property.

"Life."

45. The word "life" denotes the life of a human being, unless the contrary appears from the context.

"Death."

46. The word "death" denotes the death of a human being, unless the contrary appears from the context.

* See Act IV. 1867.

47. The word "animal" denotes any living creature other than a human being. "Animal."

48. The word "vessel" denotes any thing made for the conveyance by water of human beings, or of property. "Vessel."

49. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British Calendar. "Year."

50. The word "Section" denotes one of those portions of a Chapter of this Code which are distinguished by prefixed numeral figures. "Section."

51. The word "oath" includes a solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant, or to be used for the purpose of proof, whether in a Court of Justice or not. "Oath."

52. Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention. "Good faith."

CHAPTER III.

OF PUNISHMENTS.

53. The punishments to which offenders are liable under the provisions of this Code are— Punishments.

First,—Death;
Secondly,—Transportation;
Thirdly,—Penal servitude;
Fourthly,—Imprisonment, which is of two descriptions, namely.
(*1.*) Rigorous, that is, with hard labor.
(*2.*) Simple;
Fifthly,—Forfeiture of property.
Sixthly,—Fine.*

54. In every case in which sentence of death shall have been passed, the Government of India or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for any other punishment provided by this Code. Commutation of sentence of death.

55. In every case in which sentence of transportation for life shall have been passed, the Government of India, or the Government of the place within which the offender shall have been sentenced may, without the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years. Commutation of sentence of transportation for life.

56. Whenever any person being a European or American is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude, instead of transportation, according to the provisions of Act XXIV of 1855. Europeans and Americans to be sentenced to penal servitude instead of transportation

57. In calculating fractions of terms of punishment transportation for life shall be reckoned as equivalent to transportation for twenty years. Fractions of terms of punishment.

58. In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment. Offenders sentenced to transportation how to be dealt with until transportation.

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment. In what cases transportation may be awarded instead of imprisonment.

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall rigorous and the rest simple. Sentence may be in certain cases of imprisonment, wholly or partly rigorous or simple.

61. In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Government, until he shall have undergone the punishment awarded, or the punishment to which it shall have been commuted, or until he shall have been pardoned. Sentence of forfeiture of property.

Illustration.

A, being convicted of waging war against the Government of India, is liable to forfeiture of all his property. After the sentence, and whilst it is in force, A's father dies, leaving an estate which but for the forfeiture, would become the property of A. The estate becomes the property of Government.

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* See Act VI. 1864 regarding the punishment of whipping.

Forfeiture of property in respect of offenders punishable with death, transportation, or imprisonment.

62. Whenever any person is convicted of an offence punishable with death, the Court may adjudge that all his property moveable and immoveable, shall be forfeited to Government; and whenever any person shall be convicted of any offence for which he shall be transported, or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that the rents and profits of all his moveable and immoveable estate during the period of his transportation or imprisonment shall be forfeited to Government, subject to such provision for his family and dependants as the Government may think fit to allow during such period.

Amount of fine.

63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

Sentence of imprisonment in default of payment of fine.

64. In every case in which an offender is sentenced to a fine, it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisoment shall be in excess of any other imprisonment to which he may have been sentenced, or to which he may be liable under a commutation of a sentence.

Limit of term of imprisonment for default in payment of fine, when the offence is punishable with imprisonment as well as fine.

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine, shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

Description of imprisonmet for such default.

66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Term of imprisonment for default in payment of fine, when the offence is punishable with fine only.

67. If the offence be punishable with fine only, the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case.

Such imprisonment to terminate upon payment of the fine.

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid ot levied by process of law.

Termination of such imprisonment upon payment of proportional part of fine.

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied, that the term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration.

A is sentenced to a fine of one hundred Rupees, and to four months imprisonment in default of payment. Here, if seventy-five Rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five Rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment. A will be immediately discharged. If fifty Rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty Rupees be paid or levied at the time of the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

Fine may be levied within 6 years, or at any time during the term of imprisonment..

Death of offender not to discharge his property from liability.

70. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to imprisonment for a longer period then six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property which would, after his death, be legally liable for his debts.

Limit of punishment of offence which is made up of several offences.

71. Where anything which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

(a) A gives Z fifty strokes with a stick. Here A may have committed, the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as the blow given to Y is no part of the Act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

Punishment of a person found guilty of one or several offences the judgment stating that it is doubtful of which.

72. In all cases in which Judgment is given that a person is guilty of one of several offences specified in the Judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided, if the same punishment is not provided for all.

73. Whenever any person is convicted of an offence for which under this Code the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, that is to say— Solitary confinement.

A time not exceeding one month, if the term of imprisonment shall not exceed six months.

A time not exceeding two months, if the term of imprisonment shall exceed six months and be less than a year.

A time not exceeding three months, if the term of imprisonment shall exceed one year.

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods; and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods. Limit of solitary confinement.

75. Whoever, having been convicted of an offence punishable under Chapter XII or Chapter XVII of this Code with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those Chapters with the imprisonment of either description for a term of three years or upwards, shall be subject for every such subsequent offence to transportation for life, or to double the amount of punishment to which he would otherwise have been liable for the same; Provided, that he shall not in any case be liable to imprisonment for a term exceeding ten years. Punishment of persons convicted, after previous conviction, of an offence punishable with three years imprisonment.

CHAPTER IV.

GENERAL EXCEPTIONS.

76. Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact, and not by reason of a mistake of law, in good faith believes himself to be bound by law to do it. Act done by a person bound, or by a mistake of fact believing himself bound by law.

Illustrations.

(a) A, a solider, fires on a mob by the order of his superior Officer, in conformity with the commands of the law. A has committed no offence.

(b) A, an Officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z, A has committed no offence.

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law. Act of Judge when acting judicially.

78. Nothing which is done in pursuance of, or which is warranted by the judgment or order of, a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwithstanding the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act in good faith believes that the Court had such jurisdiction. Act done pursuant to the judgment or order of a Court of Justice.

79. Nothing is an offence which is done by any person who is justified by law, or who, by reason of a mistake of fact and not by reason of a mistake of law, in good faith believes himself to be, justified by law in doing it. Act done by a person justified, or by mistake of fact believing himself justified, by law.

Illustration

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

80. Nothing is an offence which is done by accident or misfortune, and without any criminal intention or knowledge in the doing of a lawful act in a lawful manner, by lawful means, and with proper care and caution. Accident in the doing of a lawful act.

Illustration.

A is at a work with a hatchet; the head flies off and kills a man who is standing by. Here if there was no want of proper caution on the part of A, his act is excusable and not an offence.

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property. Act likely to cause harm, but done without a criminal intent and to prevent other harm.

Explanation.—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustration.

(a.) A, the Captain of a Steam Vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B, with 20 or 30 passengers an board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only 2 passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C, and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he his not guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matter of fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down the boat C.

(b.) A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention, in good faith, of saving human life or property. Here if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

Act of a child under 7 years of age.

82. Nothing is an offence which is done by a child under seven years of age.

Act of a child above 7 and under 12 years of age who has not sufficient maturity of understanding.

83. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

Act of person of unsound mind.

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he his doing what is either wrong or contrary to law.

Act of a person incapable of judgment by reason of intoxication caused against his will.

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law; Provided, that the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a particular intent committed by one who is intoxicated.

86. In cases where an act done is not an offence unless done with a particular knowledge or intent, a person who does the act in a state of intoxication shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Act not intended and not known to be likely to cause death or grievous hurt, done by consent.

87. Nothing, which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, to any person above eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration.

A and Z agree to fence with each other for amusement. This agreement, implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play: and if A, while playing fairly, hurts Z, A commits no offence.

Act not intended to cause death, done by consent in good faith for the benefit of a person.

88. Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration.

A, a surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death, and intending, in good faith, Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

Act done in good faith for the benefit of a child or person of unsound mind, by or by consent of guardian.

89. Nothing, which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person: Provided—

Provisoes.

First. That this exception shall not extend to the intentional causing of death, or to the attempting to cause death.

Secondly. That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death, or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly. That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity;

Fourthly. That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration.

A, in good faith, for his child's benefit, without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

Consent known to be given under fear or misconception.

90. A consent is not such a consent as is intended by any Section of this Code, if the consent is given by a person under fear of injury or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception—Or

Consent of a child or person of unsound mind.

If the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or, unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

Acts which are offences independently of harm caused to the person consenting are not within the exceptions in Sections 87, 88, 89.

91. The exceptions in Sections 87, 88 and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration.

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore it is not an offence "by reason of such harm;" and the consent of the woman or of her guardian to the causing of such miscarriage does not justify the act.

Act done in good faith for the benefit of a person without consent.

92. Nothing is an offence by reason of any harm which it may cause to a person for whose benefit it is done in good faith, even without that person's consent, if the circumstances are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is possible to obtain consent in time for the thing to be done with benefit. Provided—

Provisoes.

First. That this exception shall not extend to the intentional causing of death, or the attempting to cause death;

Secondly. That this exception shall not extend to the doing of anything which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity;

Thirdly. That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt:

Fourthly. That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations.

(a.) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(b.) Z is carried off by a tiger. A fires at the tiger knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit A's ball gives Z a mortal wound. A has committed no offence.

(c.) A, a surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(d.) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the house-top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation. Mere pecuniary benefit is not benefit within the meaning of Sections 88, 89, and 92.

Communication made in good faith.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made, if it is made for the benefit of that person.

Illustration.

A, a surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence though he knew it to be likely that the communication might cause the patient's death.

Act to which a person is compelled by threats.

94. Except murder and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by

threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence; Provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do anything that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law, for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

Act causing slight harm.

95. Nothing is an offence by reason that it causes, or that it is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

Of the Right of Private Defence.

Nothing done in private defence is an offence.

96. Nothing is an offence which is done in the exercise of the right of private defence.

Right of private defence of the body and of property.

97. Every person has a right, subject to the restrictions contained in Section 99, to defend—

First. His own body, and the body of any other person against any offence affecting the human body.

Secondly. The property, whether moveable or immoveable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief, or criminal trespass, or which is an attempt to commit theft, robbery, mischief, or criminal trespass.

Right of private defence against the act of a person of unsound mind, &c.

98. When an act which would otherwise be a certain offence, is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have, if the act were that offence.

Illustrations.

(*a.*) Z, under the influence of madness, attempts to kill A; Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(*b.*) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if Z were not acting under that misconception.

Acts against which there is no right of private defence.

99. *First.*—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under color of his office, though that act may not be strictly justifiable by law.

Second.—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under color of his office, though that direction may not be strictly justifiable by law.

Third.—There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised.

Fourth.—The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public servant, as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction; or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority, if demanded.

When the right of private defence of the body extends to causing death.

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding Section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely—

First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault—

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault—

Thirdly.—An assault with the intention of committing rape—

Fourthly.—An assault with the intention of gratifying unnatural lust—

Fifthly.—An assault with the intention of kidnapping or abducting—

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

When such right extends to causing any harm other than death.

101. If the offence be not of any of the descriptions enumerated in the last preceding Section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in Section 99, to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of the right of private defence of the body.

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence, though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

When the right of private defence of property extends to causing death.

103. The right of private defence of property extends, under the restrictions mentioned in Section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely—

First—Robbery.

Secondly.—House-breaking by night.

Thirdly.—Mischief by fire committed on any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or as a place for the custody of property.

Fourthly.—Theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

When such right extends to causing any harm other than death.

104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding Section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in Section 99, to the voluntary causing to the wrong-doer of any harm other than death.

Commencement and continuance of the right of private defence of property.

105. *First.*—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

Second.—The right of private defence of property against theft continues till the offender has effected his retreat with the property, or the assistance of the public authorities is obtained, or the property has been recovered.

Third.—The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint, or as long as the fear of instant death or of instant hurt or of instant personal restraint continues.

Fourth.—The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

Fifth.—The right of private defence of property against house-breaking by night continues, as long as the house-trespass which has been begun by such house-breaking continues.

Right of private defence against a deadly assault when there is risk of harm to an innocent person.

106. If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration.

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence, if by so firing he harms any of the children.

CHAPTER V.

OF ABETMENT.

Abetment of a thing.

107. A person abets the doing of a thing, who—

First.—Instigates any person to do that thing; or,

Secondly.—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or,

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does any thing in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor.

108. A person abets on offence who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence, although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustrations.

(a.) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b.) A instigates B to murder D. B in pursuance of the instigation stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(a.) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b.) A with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act, and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c.) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(d.) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation. B is liable to be punished for his offence with the punishment for murder; and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name, C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison; Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy in pursuance of which Z has been murdered. C has therefore committed the offence defined in this Section, and is liable to the punishment for murder.

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.

Punishment of abetment if the act abetted is committed in consequence, and where no express provision is made for its punishment.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations.

(a) A offers a bribe to B, a public servant, as a reward for showing A some favor in the exercise of B's official functions. B, accepts the bribe. A has abetted the offence defined in Section 161.

(b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence and thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Punishment of abetment if the person abetted does the act with a different intention from that of the abettor.

111. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it; provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Liability of abettor when one act is abetted and a different act is done.

Proviso.

Illustrations.

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation, and the act done was under the circumstances a probable consequence of the abetment, A is liable in the same manner, and to the same extent, as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house. B sets fire to the house, and, at the same time commits theft of property there. A, though guilty of abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act, and not a probable consequence of the burning.

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

112. If the act for which the abettor is liable under the last preceding Section is committed in addition to the act abetted, and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Abettor when liable to cumulative punishment for act abetted and for act done.

Illustration.

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress, and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences.

113. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect, provided he knew that the act abetted was likely to cause that effect.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

114. Whenever any person who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

Abettor, present when offence is committed.

115. Whoever abets the commission of an offence punishable with death or transportation for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by the Code for the punishment of such abetment, be punished with imprisonment of either description for a term

Abetment of an offence punishable with death or transportation for life, if the offence be not committed in

consequence of the abetment. If an act which causes harm be done in consequence of the abetment.

which may extend to seven years, and shall also be liable to fine; and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Illustration.

A instigates B to murder Z. The offence is not committed. If B had murdered Z he would have been subject to the punishment of death or transportation for life. Therefore A is liable to imprisonment for a term which may extend to seven years, and also to a fine, and if any hurt be done to Z in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

Abetment of an offence punishable with imprisonment if the offence be not committed in consequence of the abetment.

If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.

116. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence, for a term which may extend to one-fourth part of the longest term provided for that offence, or with such fine as is provided for that offence, or with both; and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(a.) A offers a bribe to B, a public servant, as a reward for showing A some favor in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this Section.

(b.) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this Section, and is punishable accordingly.

(c.) A, a police officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(d.) B abets the commission of a robbery by A, a police officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

Abetting the commission of an offence by the public, or by more than 10 persons.

117. Whoever abets the commission of an offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A affixes in a public place a placard, instigating a sect consisting of more than ten members, to meet at a certain time and place for the purpose of attacking the members of an adverse sect while engaged in a procession. A has committed the offence defined in this Section.

Concealing a design to commit an offence punishable with death or transportation for life.

If the offence be committed.

If the offence be not committed.

118. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with death or transportation for life, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years, or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years; and in either case shall also be liable to fine.

Illustration.

A, knowing that dacoity is about to be committed at B, falsely informs the Magistrate, that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this Section.

A public servant concealing a design to commit an offence which it is his duty to prevent.

If the offence be committed.

If the offence be punishable with death, &c.

If the offence be not committed.

119. Whoever, being a public servant, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence the commission of which it is his duty as such public servant to prevent, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both; or if the offence be punishable with death or transportation for life, with imprisonment of either description for a term which may extend to ten years; or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence, for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

Illustration.

A, an officer of Po[illegible] being legally bound to give information of all designs to commit robbery which may co[illegible] to his knowledge, and knowing that B designs to commit robbery, omits to give such [illegible]rmation, with intent to facilitate the commission of that offence. Here A has by an [illegible]gal omission concealed the existence of B's design, and is liable to punishment according [illegible] the provision of this Section.

[illegible]. Whoever intending to facilitate or knowing it to be likely that he will th[illegible]eby facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth, and, if the offence be not committed, to one-eighth of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

Concealing a design to commit an offence punishable with imprisonment.

If the offence be committed.

If not committed.

CHAPTER VI.

OF OFFENCES AGAINST THE STATE.

121. Whoever wages war against the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or transportation for life, and shall forfeit all his property.

Waging or attempting to wage war, or abetting the waging of war against the Queen.

Illustrations.

(*a.*) A joins an insurrection against the Queen. A has committed the offence defined in this Section.

(*b.*) A in India abets the insurrection against the Queen's Government of Ceylon by sending arms to the insurgents. A is guilty of abetting the waging of war against the Queen.

122. Whoever collects men, arms, or ammunition, or otherwise prepares to wage war with the intention of either waging or being prepared to wage war against the Queen, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall forfeit all his property.

Collecting arms, &c., with the intention of waging war against the Queen.

123. Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the Queen, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Concealing, with intent to facilitate it, a design to wage war.

124. Whoever, with the intention of inducing or compelling the Governor-General of India, or the Governor of any Presidency, or a Lieutenant-Governor, or a Member of the Council of the Governor-General of India, or of the Council of any Presidency, to exercise or refrain from exercising in any manner any of the lawful powers of such Governor-General, Governor, Lieutenant-Governor or Member of Council, assaults, or wrongfully restraints, or attempts wrongfully to restrain, or overawes by means of criminal force or the show of criminal force, or attempts so to overawe, such Governor-General, Governor, Lieutenant-Governor, or Member of Council, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Assaulting Governor-General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.

125. Whoever wages war against the Government of any Asiatic power in alliance or at peace with the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with transportation for life, to which fine may be added; or with imprisonment of either description for a term which may extend to seven years, to which fine may be added; or with fine.

Waging war against any Asiatic power in alliance with the Queen.

126. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any power in alliance or at peace with the Queen, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used, or intended to be used in committing such depredation, or acquired by such depredation.

Committing depredation on the territories of any power at peace with the Queen.

127. Whoever receives any property, knowing the same to have been taken in the commission of any of the offences mentioned in Sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of the property so received.

Receiving property taken by war or depredation mentioned in Sections 125 and 126.

128. Whoever, being a public servant, and having the custody of any State Prisoner, or prisoner of War, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Public servant voluntarily allowing prisoner of State or war in his custody to escape.

Public servant negligently suffering Prisioner of State or War in his custody to escape.

129. Whoever, being a public servant, and ha he custody of any State Prisoner or Prisoner of War, negligently suffers snch pris r to escape from any place of confinement in which such prisoner is confined, ll be punished with simple imprisonment for a term which may extend to three ye and shall also be liable to fine.

Aiding escape of rescuing, or harbouring such prisoner.

130. Whoever knowingly aids or assists any State Prisoner or P oner of War in escaping from lawful custody, or rescues or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the re-capture of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A State Prisoner or Prisoner of War, who is permitted to be at large on his parole within certain limits in British India, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VII.

OF OFFENCES RELATING TO THE ARMY AND NAVY.

Abetting mutiny, or attempting to seduce a soldier or sailor from his duty.

131. Whoever abets the committing of mutiny by an officer, soldier, or sailor, in the Army or Navy of the Queen, or attempts to seduce any such officer, soldier, or sailor from his allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of mutiny, if mutiny is committed in consequence thereof.

132. Whoever abets the committing of mutiny by an officer, soldier, or sailor in the Army or Navy of the Queen, shall, if mutiny be committed in consequence of that abetment, be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of an assault by a soldier or sailor on his superior officer, when in the execution of his office.

133. Whoever abets an assault by an officer, soldier or sailor, in the Army or Navy of the Queen, on any superior officer, being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to a fine.

Abetment of such assault, if the assault is committed.

134. Whoever abets an assault by an officer, soldier, or sailor in the Army or sailor in the Army or Navy of the Queen, on any superior officer, being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment of the desertion of a soldier or sailor.

135. Whoever abets the desertion of any officer, soldier, or sailor in the Army or Navy of the Queen shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both.

Harbouring a deserter.

136. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, or sailor in the Army or Navy of the Queen has deserted, harbours such officer, soldier, or sailor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

Deserter concealed on board a merchant vessel through negligence of master.

137. The master or person in charge of a merchant vessel, on board of which any deserter from the Army or Navy of the Queen is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding Five Hundred Rupees, if he might have known of such concealment, but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Abetment of Act of insubordination by a soldier or sailor.

138. Whoever abets what he knows to be an act of insubordination by an officer, soldier, or sailor in the Army or Navy of the Queen, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or or with fine, or with both.

Person subject to Articles of War not punishable under this Code.

139. No person subject to any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy, is subject to punishment under this Code for any of the offences defined in this Chapter.

Wearing the dress of a soldier.

140. Whoever, not being a soldier in the Military or Naval service of the Queen, wears any garb, or carries any token resembling any garb or token used by such a soldier, with the intention that it may be believed that he is such a soldier, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Five hundred Rupees, or with both.

CHAPTER VIII.

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

141. An assembly of five or more persons is designated an "unlawful assembly," if the common object of the persons composing that assembly, is— Unlawful assembly.

First. To overawe by criminal force, or show of criminal force, the Legislative or Executive Government of India, or the Government of any Presidency, or any Lieutenant-Governor, or any Public Servant in the exercise of the lawful power of such Public Servant; or

Second. To resist the execution of any law, or of any legal process; or

Third. To commit any mischief or criminal trespass, or other offence; or

Fourth. By means of criminal force, or show of criminal force to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth. By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

142. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly. Being a member of an unlawful assembly.

143. Whoever is a member of an unlawful assembly shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both. Punishment.

144. Whoever, being armed with any deadly weapon, or with any thing which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Joining an unlawful assembly armed with any deadly weapon.

145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting. Force used by one member in prosecution of the common object.

147. Whoever is guilty of rioting shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Punishment for rioting.

148. Whoever is guilty of rioting, being armed with a deadly weapon, or with any thing which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Rioting, armed with a deadly weapon.

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is member of the same assembly, is guilty of that offence. Every member of an unlawful assembly to be held guilty of any offence committed in prosecution of common object.

150. Whoever hires or engages or employs, or promotes or connives at the hiring, engagement, or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly and for any offence which may be committed by any such person as a member of such unlawful assembly, in pursuance of such hiring, engagement, or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence. Hiring, or conniving at hiring of persons to join an unlawful assembly.

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both. Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse.

Explanation.—If the assembly is an unlawful assembly within the meaning of Section 141, the offender will be punishable under Section 145.

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant in endeavouring to disperse an unlawful assembly or to suppress a riot or affray, or uses, or threatens or attempts to use criminal force to such public servant, shall Assaulting or obstructing public servant when suppressing riot, &c.

be punished with imprisonment of either descripti[illegible] a term which may extend to three years, or with fine, or with both.

Wantonly giving provocation, with intent to cause riot. If rioting be committed. If not committed.

153. Whoever malignantly or wantonly, by doing a[illegible] thing which is illegal, gives provocation to any person, intending or knowing it[illegible] likely that such provocation will cause the offence of rioting to be committed, s[illegible] the offence of rioting be committed in consequence of such provocation, be pu[illegible]hed with imprisonment of either description for a term which may extend to one y[illegible]r, or with fine, or with both; and if the offence of rioting be not committed, wit[illegible]n-prisonment of either description for a term which may extend to six months, [illegible] with fine, or with both.

Owner or occupier of land on which an unlawful assembly is held.

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding One Thousand Rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest Police station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it, and in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

Liability of person for whose benefit a riot is committed.

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

Liability of agent of owner or occupier for whose benefit a riot is committed.

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

Harbouring persons hired for an unlawful assembly.

157. Whoever harbours, receives, or assembles in any house or premises in his occupation or charge, or under his control, any persons, knowing that such persons have been hired, engaged, or employed, or are about to be hired, engaged, or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Being hired to take part in an unlawful assembly or riot.

Or to go armed.

158. Whoever is engaged or hired or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in Section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both; and whoever, being so engaged or hired as aforesaid, goes armed, or engages or offers to go armed, with any deadly weapon or with any thing which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Affray.

159. When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray."

Punishment for the commission of an affray.

160. Whoever commits an affray shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to One Hundred Rupees, or with both.

CHAPTER IX.

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

Public servant taking a gratification, other than legal remuneration, in respect of an official act.

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, or for showing or forbearing to show, in the exercise of his official functions, favor or disfavor to any

person, or for rendering or attempting to render any service or disservice to any person, with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations.—"Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this Section.

"Gratification." The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money.

"Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

"A motive or reward for doing." A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations.

(*a.*) A, a Moonsiff, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favor of Z. A has committed the offence defined in this Section.

(*b.*) A, holding the office of Resident at the Court of a subsidiary power, accepts a lakh of Rupees from the Minister of that power. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that power with the British Government. But it does appear that A accepted the sum as a motive or reward for generally showing favor in the exercise of his official functions to that power. A has committed the offence defined in this Section.

(*c.*) A, a public servant induces Z erroneously to believe that A's influence with the Government has obtained a title for Z, and thus induces Z, to give A money as a reward for this service. A has committed the offence defined in this Section.

Taking a gratification, in order, by corrupt or illegal means, to influence a public servant.

162. Whoever accepts or obtains, or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever as a motive or reward for inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favor or disfavor to any person, or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India, or with the Government of the Presidency, or with any Lieutenant-Governor, or with any public servant as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Taking a gratification for the exercise of personal influence with a public servant.

163. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favor or disfavor to any person, or to render or attempt to render any service or disservice to any person with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

An advocate who receives a fee for arguing a case before a Judge; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust—are not within this Section, inasmuch as they do not exercise or profess to exercise personal influence.

Punishment for abetment by public servant of the offences above defined.

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding Sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is punishable with imprisonment for a term not exceeding one year, or with fine, or with both. A is punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Public servant obtaining any valuable thing, without consideration, from person

165. Whoever, being a public servant, accepts or obtains, or argrees to accept or attempts to obtain, for himself or for any other person, any valuable thing, without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be con-

concerned in any proceeding or business transacted by such public servant.

cerned in any proceeding or business transacted, or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or any person whom he knows to be interested in or related to the person so concerned, shall be punished with simple imprisonment for a term which may extend to three years, or with fine, or with both.

Illustrations.

(*a*) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty Rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred Rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(*b*) A, a Judge, buys of Z, who has a cause pending in A's Court, Government Promissory Notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(*c*) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

Public servant disobeying a direction of the law, with intent to cause injury to any person.

166. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favor by a Court of Justice, knowingly disobeys that direction of law, with a knowledge that he is likely thereby to cause injury to Z. A has committed the offence defined in this section.

Public servant framing an incorrect document with intent to cause injury.

167. Whoever, being a public servant, and being as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant unlawfully engaging in trade.

168. Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public servant unlawfully buying or bidding for property.

169. Whoever, being a public servant, and being legally bound as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

Personating a public servant.

170. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under color of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wearing garb or carrying token used by public servant with fraudulent intent.

171. Whoever, not belonging to certain class of public servants, wears any garb or carries any token resembling any garb or token used by that class of public servants, with the intention that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Two Hundred Rupees, or with both.

CHAPTER X.

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

Absconding to avoid service of summons or other proceeding from a public servant.

172. Whoever absconds in order to avoid being served with a summons, notice, or order proceeding from any public servant, legally competent, as such public servant, to issue such summons, notice, or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees, or with both; or, if the summons, notice, or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

173. Whoever in any manner intentionally prevents the serving on himself, or on any other person of any summons, notice, or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice, or order; or intentionally prevents the lawful affixing to any place of any such summons, notice, or order, or intentionally removes any such summons, notice, or order from any place to which it is lawfully affixed, or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees or with both; or, if the summons, notice, order or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Preventing service of summons or other proceeding, or preventing publication thereof.

174. Whoever, being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees, or with both; or if the summons, notice, order, or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Hundred Rupees or with both.

Non-attendance in obedience to an order from a public servant.

Illustrations.

(*a.*) A, being legally bound to appear before the Supreme Court at Calcutta, in obedience to a subpœna issuing from that Court, intentionally omits to appear. A has committed the offence defined in this Section.

(*b.*) A, being legally bound to appear before a Zillah Judge, as a witness, in obedience to a summons issued by that Zillah Judge, intentionally omits to appear. A has committed the offence defined in this Section.

175. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees, or with both; or if the document is to be produced or delivered up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Omission to produce a document to a public servant by a person legally bound to produce such document.

Illustration.

A, being legally bound to produce a document before a Zillah Court, intentionally omits to produce the same. A has committed the offence defined in this Section.

176. Whoever being legally bound to give any notice or to funish information on any subject to any public servant, as such, intentionally omits to give such notice or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees or with both; or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Omission to give notice or imformation to a public servant by a person legally bound to give notice or information.

177. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both; or if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Furnishing false information.

Illustrations.

(*a*). A landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the District that the death has occurred by accident in consequence of the bite of a snake. A is guilty of the offence defined in this Section.

(*b*) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant residing in a neighbouring place, and being bound, under Clause 5, Section VII., Regulation III., 1821, of the Bengal Code, to give early and punctual information of the above fact to the

officer of the nearest Police Station, wilfully misinforms the Police Officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in this Section.

Refusing oath when duly required to take oath by a public servant.

178. Whoever refuses to bind himself by an oath to state the truth, when required so to bind himself by a public servant legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Refusing to answer a public servant authorized to question.

179. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Refusing to sign statement.

180. Whoever refuses to sign any statement made by him, when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to Five Hundred Rupees, or with both.

False statement on oath to public servant or person authorized to administer an oath.

181. Whoever, being legally bound by an oath to state the truth on any subject to any public servant or other person authorized by law to administer such oath, makes to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

False information, with intent to cause a public servant to use his lawful power to the injury of another person.

182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause such public servant to use the lawful power of such public servant to the injury or annoyance of any person, or to do or omit any thing which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Illustrations.

(a.) A informs a Magistrate that Z, a police officer subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this Section.

(b.) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this Section.

Resistance to the taking of property by the lawful authority of a public servant.

183. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Obstructing sale of property offered for sale by authority of a public servant.

184. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees, or with both.

Illegal purchase or bid for property offered for sale by authority of a public servant.

185. Whoever, at any sale of property held by the lawful authority of a public servant as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to Two Hundred Rupees, or with both.

Obstructing public servant in discharge of his public functions.

186. Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Five Hundred Rupees, or with both.

Omission to assist public servant when bound by law to give assistance.

187. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Two Hundred Rupees, or with both; and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully

issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot or affray, or of apprehending a person charged with or guilty of an offence or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Hundred Rupees, or with both.

Disobedience to an order duly promulgated by a public servant.

188. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury, to any persons lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Two Hundred Rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health, or, safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce harm.

Illustration.

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this Section.

Threat of injury to a public servant.

189. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Threat of injury to induce any person to refrain from applying for protection to a public servant.

190. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XI.

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

Giving false evidence.

191. Whoever, being legally bound by an oath, or by any express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, is said to give false evidence.

192. *Explanation* 1.—A statement is within the meaning of this Section, whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this Section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations.

(*a*) A, in support of a just claim which B has against Z for one thousand Rupees, falsely swears on a trial that he heard Z admit the justice of B's claim, A has given false evidence.

(*b*) A, being bound by an oath to state the truth, states that he believes a certain signature to be the hand-writing of Z, when he does not believe it to be the hand-writing of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(*c*) A, knowing the general character of Z's hand-writing, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(*d*) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing any thing upon the subject. A gives false evidence whether Z was at that place on the day named or not.

(*e*) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is bound by oath to interpret or translate truly, that which is not and which he does not believe to be a true interpretation or translation. A has given false evidence.

Fabricating false evidence.

192. Whoever causes any circumstance to exist, or [illegible] a to fine; and if any act any book or record, or makes any document containing a fa[illegible]ent, and which causes that such circumstance, false entry, or false statement may a[illegible] imprisonment of either a judicial proceeding, or in a proceeding taken by law before a p[illegible] shall also be liable such, or before an arbitrator, and that such circumstance, false en[illegible] statement, so appearing in evidence, may cause any person, who in such pro[illegible] Z he is to form an opinion upon the evidence, to entertain an erroneous opinion touc[illegible] is any point material to the result of such proceeding, is said "to fabricate false evidence."

Illustrations.

(*a*) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(*b*) A makes a false entry in his shop book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(*c*) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's hand-writing, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence

Punishment for false evidence.

193. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court Martial or before a Military Court of Request is a judicial proceeding.

Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before an officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Giving or fabricating false evidence with intent to procure conviction of a capital offence.

If innocent person be thereby convicted and executed.

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by this Code, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death or the punishment hereinbefore described.

Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment.

195. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which by this Code is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration.

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation for life, or rigorous imprisonment for a term which may extend to ten years, with or without fine. A therefore is liable to such transportation or imprisonment, with or without fine.

Using evidence known to be false.

196. Whoever corruptly uses or attempts to use as true or genuine evidence any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Issuing or signing false certificate.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as a true certificate one known to be false in a material point.

198. Whoever corruptly uses or attempts to use any such certificate as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

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199. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

False statement made in any declaration which is by law receivable as evidence.

200. Whoever corruptly uses or attempts to use as true any such declaration knowing the same to be false in any material point shall be punished in the same manner as if he gave false evidence.

Using as true any such declaration known to be false.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of Sections 199 and 200.

201. Whoever knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment of any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender.—If a capital offence.

If punishable with transportation.

If punishable with less than ten years imprisonment.

Illustration.

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Intentional omission to give information of an offence by a person bound to inform.

203. Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Giving false information respecting an offence committed.

204. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Destruction of document to prevent its production as evidence.

205. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued, or becomes bail or security, or does any other act in any suit or criminal prosecution, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

False personation for the purpose of any act or proceeding in a suit.

206. Whoever fraudulently removes, conceals, transfers, or deliver to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture, or in satisfaction of a fine, under a sentence which has been pronounced or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a Civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent removal or concealment of property to prevent its seizure as a forfeiture or in execution of a decree.

207. Whoever fraudulently accepts, receives, or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a

Fraudulent claim to property to prevent its seizure as a forfeiture or in execution of a decree.

Court of Justice in a Civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently suffering a decree for a sum not due.

208. Whoever fraudulently causes or suffers a decree against him at the suit of any person for a sum not due, or for a larger sum than is due to such person, or for any property or interest in property which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for any thing in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration.

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a large amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this Section.

Dishonestly making false claim in a Court of Justice.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Fraudulently obtaining a decree for a sum not due.

210. Whoever fraudulently obtains a decree or order against any person for a sum not due, or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied, or for any thing in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False charge of offence made with intent to injure.

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Harbouring an offender.

If a capital offence.

If punishable with transportation for life, or with imprisonment.

212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offence is punishable with imprisonment which may extend to one year and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed dacoity, knwingly conceals B in order to screen him from legal punishment. Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

Taking gift, &c., to screen an offender from punishment.

If a capital offence.

If punishable with transportation for life or with imprisonment.

213. Whoever accepts, or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the

offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Offering gift or restoration of property in consideration of screening offender—

214. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that persons's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

If a capital offence.

If punishable with transportation for life or with imprisonment.

Exception.—The provisions of Sections 213 and 214 do not extend to any case in which the offence consists only of an act irrespective of the intention of the offender, and for which act the person injured may bring a civil action.

Illustrations.

(*a*) A assaults B with intent to commit murder. Here, as the offence does not consist of the assault only, irrespective of the intention to commit murder, it does not fall within the exception, and cannot therefore be compounded

(*b*) Assaults B. Here, as the offence consists simply of the act, irrespective of the intention of the offender, and as B may have a civil action for the assault, it is within the exception and may be compounded.

(*c*) A commits the offence of bigamy. Here, as the offence is not the subject of a civil action, it cannot be compounded.

(*d*) B commits the offence of adultery with a married a woman. The offence may be compounded.

Taking gift to help to recover stolen property, &c.

215. Whoever takes or agrees or consents to make any gratification under pretence or on account of helping any person to recover any moveable property of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring an offender who has escaped from custody, or whose apprehension has been ordered—

216. Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence, whoever knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say, if the offence for which the person was in custody or is ordered to be apprehended is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine; and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

If a capital offence.

If punishable with transportation for life or with imprisonment.

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture.

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save or knowing it to be likely that he will thereby save any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save or knowing that he is likely thereby to save any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Public servant framing an incorrect record or writing with intent to save person from punishment or property from forfeiture.

218. Whoever, being a public servant, and being, as such public servant, charged with the preparation of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause or knowing it to be likely that he will thereby cause loss or injury to the public or to any person, or with intent thereby to save or knowing it to be likely that he will thereby save any person from legal punishment, or with intent to save or knowing that

he is likely thereby to save any property from forfeitu
it is liable by law, shall be punished with imprisonment o
term which may extend to three years, or with fine, or with

Public servant in a judicial proceeding corruptly making an order, report, &c., which he knows to be contrary to law.

219. Whoever, being a public servant, corruptly or ma
pronounces in any stage of a judicial proceeding any report, order,
decision which he knows to be contrary to law, shall be punished with im
ment of either description for a term which may extend to seven years, or
fine, or with both.

Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law.

220. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement, in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Intentional omission to apprehend on the part of a public servant bound by law to apprehend.

Punishment.

221. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say :—

With imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with or liable to be apprehended for an offence punishable with death ; or

With imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years ; or

With imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement or who ought to have been apprehended was charged with or liable to be apprehended for an offence punishable with imprisonment for a term less than ten years.

Intentional omission to apprehend on the part of a Public Servant bound by law to apprehend person under sentence of a Court of Justice.

Punishment.

222. Whoever, being a public servant, legally bound as such public servant to apprehend or keep in confinement any person under sentence of a Court of Justice for any offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say :—

With transportation for life or with imprisonmeut of either description for a term which may extend to fourteen years, with or without fine, if the person inc onfinement, or who ought to have been apprehended, is under sentence of death ; or

With imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended. is subject, by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life or penal servitude for life, or to transportation or penal servitude or imprisonment for a term of ten years or upwards ; or

With imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement or who ought to have been apprehended is subject by a sentence of a Court of Justice to imprisonment for a term not extending to ten years.*

Escape from confinement negligently suffered by a public servant.

223. Whoever, being a public servant legally bound as such public servant to keep in confinement any person charged with or convicted of any offence, negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.*

Resistance or obstruction by a person to his lawful apprehension.

224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this Section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

* See Section 2, Act IV. of 1867.

244. Whoever, feloniously offers any resistance or illegal obstruction to the India, does any act, or any other person for an offence, or rescues or attempts to causing any coin is sued from any custody in which that person is lawfully detained from the weigh[illegible] be punished with imprisonment of either description for a ment of [illegible] extend to two years, or with fine, or with both. Resistance or obstruction to the lawful apprehension of another person. Punishment.

also [illegible] the person to be apprehended, or the person rescued or attempted to be [illegible]d, is charged with or liable to be apprehended for an offence punishable with [illegible]sportation for life or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

Or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

Or, if the person to be apprehended or rescued, or attempted to be rescued, is liable, under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to transportation for life, or to transportation, penal servitude, or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment, of either description for a term which may extend to seven years, and shall also be liable to fine;

Or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with transportation for life or imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

226. Whoever, having been lawfully transported, returns from such transportation, the term of such transportation not having expired, and his punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported. Unlawful return from transportation.

227. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered. Violation of condition of remission of punishment.

228. Whoever intentionally offers any insult or causes any interruption to any public servant, while such public servant is sitting in any stage of a Judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both. Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.

229. Whoever, by personation or otherwise, shall intentionally cause or knowingly suffer himself to be returned, empanelled, or sworn as a juryman or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled, or sworn, or, knowing himself to have been so returned, empanelled, or sworn, contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Personation of a juror or assessor.

CHAPTER XII.

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPRS.

230. Coin is metal used as money stamped and issued by the authority of some Government in order to be so used. Coin.

Coin stamped and issued by the authority of the Queen, or by the authority of the Government of India, or of the Government of any Presidency, or of any Government in the Queen's dominions, is the Queen's coin. Queen's coin.

Illustration.

(a) Cowries are not Coin.
(b) Lumps of unstamped coper, though used as money, are not coin.
(c) Medals are not coin inasmuch as they are not intended to be used as money.
(d) The coin denominated as the Company's Rupee is the Queen's coin.

231. Whoever counterfeits or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Counterfeiting coin.

Explanation.—A person commits this offence, who, intending to practice deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

Counterfeiting the Queen's coin.

232. Whoever counterfeits or knowingly performs counterfeiting the Queen's coin, shall be punished with t with imprisonment of either description for a term which ma and shall also be liable to fine.

Making or selling instrument for counterfeiting coin.

233. Whoever makes or mends, or performs any part of the pr ing or mending, or buys, sells, or disposes of, any die or instrument, for pose of being used, or knowing or having reason to believe that it is intended used, for the purpose of counterfeiting coin, shall be punished with imprisonme of either description for a term which may extend to three years, and shall also be liable to fine.

Making or selling instrument for counterfeiting Queen's coin

234. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Possession of instrument or material for the purpose of using the same for counterfeiting coin.

235. Whoever is in possession of any instrument or material for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine ; and if the coin to be counterfeited is the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetting in India the counterfeiting out of India of coin.

236. Whoever, being within British India, abets the counterfeiting of coin out of British India, shall be punished in the same manner as if he abetted the counterfeiting of such coin within British India.

Import or export of counterfeit coin.

237. Whoever imports into British India, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Import or export of counterfeits of the Queen's coin.

238. Whoever imports into British India, or exports therefrom, any counterfeit coin which he knows or has reason to believe to be a counterfeit of the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery to another of coin, possessed with the knowledge that it is counterfeit.

239. Whoever, having any counterfeit coin which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of Queen's coin, possessed with the knowledge that it is counterfeit.

240. Whoever, having any counterfeit coin which is a counterfeit of the Queen's coin, and which at the time when he became possessedof it he knew to be a counterfeit of the Queen's coin, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery to another of coin as genuine, which when first possessed the deliverer did not know to be counterfeit.

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Illustrations.

A, a coiner, delivers counterfeit Company's Rupees to his accomplice B, for the purpose of uttering them. B, sells the Rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the Rupees for goods to D, who receives them, not knowing them to be counterfeit. D, after receiving the Rupees, discovers that they are counterfeit, and pays them away as if they were good. Here D is punishable only under this Section, but B and C are punishable under Section 239 or 240 as the case may be.

Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.

242. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and also be liable to fine.

Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.

243. Whoever, fraudulently or with intent that fraud may be committed, is in possession of counterfeit coin which is a counterfeit of the Queen's coin, having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

244. Whoever, being employed in any mint lawfully established in British India, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Employee in a mint causing coin to be of a different weight or composition from that fixed by law.

245. Whoever, without lawful authority, takes out of any mint lawfully established in British India, any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Unlawfully taking from a mint any coining instrument.

246. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation. A person who scoops out part of the coin, and puts anything else into the cavity, alters the composition of that coin.

Fraudulently or dishonestly diminishing the weight or altering the composition of any coin.

247. Whoever, fraudulently or dishonestly performs on any of the Queen's coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing the weight or altering the composition of the Queen's coin.

248. Whoever, performs on any coin any operation which alters the appearance of that coin with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Altering appearance of any coin with intent that it shall pass as a coin of a different description.

249. Whoever performs on any of the Queen's coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.

250. Whoever, having coin in his possession with respect to which the offence defined in Section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery to another of coin possessed with the knowledge that it is altered.

251. Whoever, having coin in his possession with respect to which the offence defined in Section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery of Queen's coin possessed with the knowledge that it is altered.

252. Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of altered coin by a person who knew it to be altered when he became possessed thereof.

253. Whoever, fraudulently or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 247 or 249 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.

254. Whoever delivers to any other person as genuine or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in Sections 246, 247, 248, or 249, has been performed, but in respect of which he did not, at the time when he took it into his possession, know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed or attempted to be passed.

Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of revenue, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Counterfeiting a Government stamp.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination

Having possession of an instrument or material for the purpose of counterfeiting a Government stamp.

256. Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or selling instrument for the purpose of counterfeiting a Government stamp.

257. Whoever makes, or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Goverment for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sale of counterfeit Government stamp.

258. Whoever sells, or offers for sale, any stamp which he knows or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a counterfeit Government stamp.

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use or dispose of the same as a genuine stamp, or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Using as genuine a Government stamp known to be counterfeit.

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Effecting any writing from a substance bearing a Government stamp, or removing from a document a Stamp used for it, with intent to cause loss to Government.

261. Whoever, fraudulently or with intent to cause loss to the Government removes or effaces from any substance bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Using a Government stamp known to have been before used.

262. Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Erasure of mark denoting that Stamp has been used.

263. Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue, any mark put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession, or sells or disposes of, any such stamp from which such mark has been erased or removed, or sells or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XIII.

OF OFFENCES RELATING TO WEIGHTS AND MEASURES.

Fraudulently use of false instrument for weighing.

264. Whoever fraudulently uses any instrument for weighing which he knows to be false shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulently use of false weight or measure.

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Being in possession of false weights or measures.

266. Whoever is in possession of any instrument for weighing, or of any weight or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making or selling false weights or measures.

267. Whoever makes, sells, or disposes of, any instrument for weighing, or any weight, or any measure of length or capacity which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be

used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIV.

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.

Public nuisance.

268. A person is guilty of a public nuisance, who does any act, or is guilty of an illegal omission, which causes any common injury, danger, or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger, or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

Negligent act likely to spread infection of any disease dangerous to life.

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Malignant act likely to spread infection of any disease dangerous to life.

270. Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, snall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disobedience to a quarantine rule.

271. Whoever, knowingly disobeys any rule made and promulgated by the Government of India, or by any Government, for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore or with other vessels, or for regulating the intercourse between places where an infectious disease prevails and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Adulteration of food or drink which is intended for sale.

272. Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Sale of noxious food or drink.

273. Whoever sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Adulteration of drugs.

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Sale of adulterated drugs.

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Sale of any drug as a different drug or preparation.

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Fouling the water of a public spring or reservoir.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it its ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Five Hundred Rupees or with both.

Making atmosphere noxious to health.

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling or carrying on business in

the neighbourhood or passing along the public way, shall be punished with fine which may extend to Five Hundred Rupees.

Rash driving or riding on a public way.

279. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Rash navigation of a vessel.

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Exhibition of a false light, mark or bony.

281. Whoever exhibits any false light, mark, or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Conveying person by water for hire in a vessel overloaded or unsafe.

282. Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Danger or obstruction in a public way or navigation.

283. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction, or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to Two Hundred Rupees.

Negligent conduct with respect to any poisonous substance.

284. Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Negligent conduct with respect to any fire or combustible matter.

285. Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Negligent conduct with respect to any explosive substance.

286. Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Negligent conduct with respect to any machinery in the possession or under the charge of the offender.

287. Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Negligence with respect to pulling down or repairing buildings.

288. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Negligence with respect to any animal.

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to One Thousand Rupees, or with both.

Punishment for public nuisance.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to Two Hundred Rupees.

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both. Continuance of nuisance after injuction to discontinue.

292. Whoever sells or distributes, imports or prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation, or figure, or attempts or offers so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both. Sale &c. of obscene books.

Exception. This Section does not extend to any representation sculptured, engraved, painted, or otherwise represented, on or in any Temple, or on any car used for the conveyance of idols, or kept or used for any religious purpcse,

293. Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding Section for the purpose of sale, distribution, or public exhibition, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both. Having in possession obscene book for sale or exhibition.

294. Whoever sings, recites, or utters in or near any public place any obscene song, ballad, or words to the annoyance or others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both. Obscene songs.

CHAPTER XV.

OF OFFENCES RELATING TO RELIGION.

295. Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons, with the intention of thereby insulting the religion of any class of persons, or with the knowledge that any class of persons is likely to consider such destruction, damage, or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Injuring or defiling a place of worship, with intent to insult the religion of any class.

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Disturbing a religious assembly.

297. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites, or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Trespassing on burial places, &c.

298. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or place any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Uttering words &c. with deliberate intent to wound the religious feelings of any person.

CHAPTER XVI.

OF OFFENCES AFFECTING THE HUMAN BODY.

OF OFFENCES AFFECTING LIFE.

299. Whoever causes death by doing an act with the intention of causing such bodily injury as is likely to cause death, or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide. Culpable homicide.

Illustrations.

(*a*) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(*b*) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(*c*) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

Explanation 1.—A person who causes bodily injury to another who is laboring under a disorder, disease, or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

Murder.

300. Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death, or—

2ndly. If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused, or—

3rdly. If it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death, or—

4thly. If the person committing the act knows it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations.

(*a*) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(*b*) A, knowing that Z is labouring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is labouring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(*c*) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here, A is guilty of murder, although he may not have intended to cause Z's death.

(*d*) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

Exception 1.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who give the provocation, or causes the death of any other person by mistake or acident.

The above exception is subject to the following provisoes :—

First. That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly. That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly. That the provocation is not given by any thing done in the lawful exercise of the right of private defence.

Exception. Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder, is a question of fact.

Illustrations.

(*a*) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, in as much as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(*b*) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(*c*) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his power.

(*d*) A appears as a witness before Z, a Magistrate. Z says that he does not believe a word of A's deposition, and that A has perjured himself A is moved to sudden passion by these words, and kills Z. This is murder.

(*e*) A attempts to pull Z's nose. Z, in the exercise of the right of private defence lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence,

and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(*f*) Z strikes B. B is by his provocation excited violent rage. A, a bystander, intending to take advantage of B's rage, and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2. Culpable homicide is not murder, if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law, and causes the death of the person against whom he is exercising such right of defence, without premeditation and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration.

Z attempts to horse-whip A, in such manner as to cause grievous hurt to A, A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horse-whipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3. Culpable homicide is not murder, if the offender, being a public servant, or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he in good faith believes to be lawful and necessary for the due discharge of his duty as such public servant, and without ill-will towards the person whose death is caused.

Exception 4. Culpable homicide is not murder, if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel, and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Explanation. It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5. Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death, or takes the risk of death with his own consent.

Illustrations.

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of B's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

Culpable homicide by causing the death of a person other than the person whose death was intended.

301. If a person, by doing any thing which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

Punishment for murder.

302. Whoever commits murder shall be punished with death, or transportation for life, and shall also be liable to fine.

Punishment for murder by a life convict.

303. Whoever being under sentence of transportation for life, commits murder, shall be punished with death.

Punishment for culpable homicide not amounting to murder.

304. Whoever commits culpable homicide not amounting to murder, shall be punished with transportation for life or imprisonment of either description for a term which may extend to ten years, and shall also be liable to a fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or with imprisonment of either description for a term which may extend to ten years, or with fine, or wtth both, it the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

Abetment of suicide of child of insane person.

305. If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

Abetment of suicide.

306. If any person commits suicide, whoever abets the commission of such suicide shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Attempt to murder.

307. Whoever does any act, with such intention or knowledge and under such circumstances that if he by that act caused death he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to transportation for life, or to such punishment sa is hereinbefore mentioned.

Illustrations.

(*a*) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this Section.

(*b*). A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this Section, though the death of the child does not ensue.

(*c*) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this Section; and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of this Section.

(*d*) A, intending to murder Z by poison, purchases poison and mixes the same with food which remains in A's keeping; A has not yet committed the offence defined in this Section. A places the food on Z's table, or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this Section.

Attempt to commit culpable homicide.

308. Whoever does any act, with such intention or knowledge and under such circumstances that if he by that act caused death he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration.

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that if he thereby caused death he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this Section.

Attempt to commit suicide.

309. Whoever attempts to commit suicide, and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, and shall also be liable to fine.

Thug.

310. Whoever at any time after the passing of this Act shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a Thug.

Punishment.

311. Whoever is a thug shall be punished with transportation for life, and shall also be liable to fine.

OF THE CAUSING OF MISCARRIAGE, OF INJURIES TO UNBORN CHILDREN, OF THE EXPOSURE OF INFANTS, AND OF THE CONCEALMENT OF BIRTHS.

Causing miscarriage.

312. Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both, and if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation. A woman who causes herself to miscarry is within the meaning of this Section.

Causing miscarriage without woman's consent.

313. Whoever commits the offence defined in the last preceding Section without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Death caused by an act done with intent to cause miscarriage—If act done without woman's consent.

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act, which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the act is done without the consent of the woman, shall be punished either with transportation for life, or with the punishment above-mentioned.

Explanation. It is not essential to this offence that the offender should know that the act is likely to cause death.

Act done with intent to prevent a child being born alive or to cause it to die after birth.

315. Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.

Causing death of a quick unborn child by an act amounting to culpable homicide.

316. Whoever does any act, under such circumstances that if he thereby cause death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Illustration.

A, knowing that he is likely to cause the death of a pregnant woman, does an act which if it caused the death of the woman, would amount to culpable homicide. The woman is in

jured, but does not die; but the death of an unborn quick child with which she is pregnant, is thereby caused. A is guilty of the offence defined in this Section.

317. Whoever, being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Exposure and abandonment of a child under twelve years by parent, or person having care of it.

Explanation. This Section is not intended to prevent the trial of the offender for murder or culpable homicide as the case may be, if the child die in consequence of the exposure.

318. Whoever by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Concealment of birth by secret disposal of dead body.

OF HURT.

319. Whoever causes bodily pain, disease, or infirmity to any person is said to cause hurt.

Hurt.

320. The following kinds of hurt only are designated as "grievous:"–

Grievous hurt.

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life, or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

Voluntarily causing hurt.

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

Voluntarily causing grievous hurt.

Explanation. A person is not said voluntarily to cause grievous hurt except when he both causes grievous hurt and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt if, intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending or knowing himself to be likely permanently to disfigure Z,s face, gives Z a blow which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

323. Whoever, except in the case provided for by Section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to One Thousand Rupees, or with both.

Punishment for voluntarily causing hurt.

324. Whoever, except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Voluntarily causing hurt by dangerous weapons or means.

325. Whoever, except in the case provided by Section 335, voluntarily causes grivous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment for voluntarily causing grievous hurt.

326. Whoever, except in the case provided by Section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing, or cutdng, or any instrument which, used as a weapon of offence, is likely to cause etiath, or by means of fire or any heated substance, or by means of any poison

Voluntarily causing grievous hurt by dangerous weapons or means.

or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort property or to constrain to an illegal act.

327. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Causing hurt by means of poison &c., with intent to commit an offence.

328. Whoever administers to, or causes to be taken by any person, any poison or any stupefying, intoxicating or unwholesome drug or other thing, with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence, or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to extort property, or to constrain to an illegal act.

329. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an offence, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort confession, or to compel restoration of property.

330. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Illustration.

(a) A, a Police officer, tortures Z in order to induce Z to confess that he committed a crime. A is guilty of an offence under this Section.

(b) A, a police officer, tortures B to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this Section.

(c) A, a revenue officer, tortures Z in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this Section.

(d) A, a zemindar, tortures a ryot in order to compel him to pay his rent. A is guilty of an offence under this Section.

Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to deter public servant from his duty.

332. Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of any thing done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Voluntarily causing grievous hurt to deter a public servant from his duty.

333. Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt on provocation.

334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment

of either description for a term which may extend to one month, or with fine which may extend to Five hundred Rupees, or, with both.

Causing grievous hurt on provocation.

335. Whoever causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description, for a term which may extend to four years, or with fine which may extend to Two Thousand Rupees, or with both.

Explanation. The last two Sections are subject to the same provisoes as Exception 1, Section 300.

Punishment for act which endangers life or the personal safety of others.

336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Two Hundred and Fifty Rupees, or with both.

Causing hurt by an act which endangers life or the personal safety of others.

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to Five Hundred Rupees, or with both.

Causing grievous hurt by an act which endangers life or the personal safety of others.

338. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life, or the personal safety of others, shall be punished with imprisonment of either description for a term which may extend to Two years, or with fine which may extend to One Thousand Rupees, or with both.

WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT.

Wrongful restraint.

339. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Exception. The obstruction of a private way over land or water, which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this Section.

Illustrations.

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z

Wrongful confinement.

340. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person.

Illustrations.

(*a*) A causes Z to go with in a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(*b*) A places men with fire-arms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

Punishment for wrongful restraint.

341. Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Five Hundred Rupees, or with both.

Punishment for wrongful confinement.

342. Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to One year, or with fine which may extend to One Thousand Rupees, or with both.

Wrongful confinement for three or more days.

343. Whoever wrongfully confines any person for three days or more shall be punished with imprisonment of either description for a term which may extend to Two years, or with fine, or with both.

Wrongful confinement for ten or more days.

344. Whoever wrongfully confines any person for ten days or more shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement of person for whose liberation a writ has been issued.

345. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any term of imprisonment to which he may be liable under any other Section of this Code.

Wrongful confinement in secret.

346. Whoever wrongfully confines any person in such manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to, or discovered by any such person or public servant as hereinbefore mentioned, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to any other punishment to which he may be liable for such wrongful confinement.

Wrongful confinement for the purpose

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined,

of extorting property or constraining to an illegal act.

any property or valuable security, or of constraining the person confined. or any person interested in such person, to do anything illegal or to give any information which may facilitate the commission of an offence, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement for the purpose of extorting confession, or of compelling restoration of property.

348. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined, or any person interested in the person confined, to restore, or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

OF CRIMINAL FORCE AND ASSAULT.

Force.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated that such contact affects that other's sense of feeling ; Provided, that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described.

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion or change or cessation of motion takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

Criminal force.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear, or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations.

(*a*) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z ; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(*b*) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing the animals to change their motion, A has therefore used force to Z ; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, A has committed criminal force to Z.

(*c*) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z ; and as A has acted thus intentionally without Z's consent, in order to the commission of an offence, A has used criminal force to Z.

(*d*) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used criminal force to Z.

(*e*) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water and dash up the water against Z's clothes or something carried by Z. Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z or Z's clothes, A has used force to Z ; and if he did so without Z's consent, intending thereby to injure, frighten, or annoy Z, he has used criminal force to Z.

(*f*) A intentionally pulls up a woman's veil. Here A intentionally uses force to her ; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy her, he has used criminal force to her.

(*g*) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling : A has therefore intentionally used force to Z ; and if he has done this without Z's consent intending or knowing it to be likely that he may thereby cause injure, fear, or annoyance to Z, A has used criminal force.

(*h*) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear, or annoyance to Z, he uses criminal force to Z.

351. Whoever makes any gesture or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault. Assault.

Explanation. Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparations such a meaning as may make those gestures or preparations amount to an assault.

Illustration.

(*a*) A shakes his fist at Z, intending or knowing it to be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(*b*) A begins to unloose the muzzle of a ferocious dog, intending or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(*c*) A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A could in no cause amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

352. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Five Hundred Rupees or with both. Punishment for using criminal force otherwise than on grave provocation.

Explanation. Grave and sudden provocation will not mitigate the punishment for an offence under this Section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence—or

If the provocation is given by any thing done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant—or

If the provocation is given by anything done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Using criminal force to deter a public servant from discharge of his duty.

354. Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Assault or use of criminal force to a woman with intent to outrage her modesty.

355. Whoever assaults or uses criminal force to any person, intending thereby to dishonor that person, otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Assault or criminal force with intent to dishonor a person, otherwise than on grave provocation.

356. Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description for a term which may extend two years, or with fine, or with both. Assault or criminal force in attempt to commit theft of property carried by a person.

357. Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to One Thousand Rupees, or with both. Assault or criminal force in attempt wrongfully to confine person.

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to Two Hundred Rupees, or with both. Assaulting or using criminal force on grave provocation.

Explanation—The last Section is subject to the same explanation as Section 352.

OF KIDNAPPING, ABDUCTION, SLAVERY AND FORCED LABOR.

359. Kidnapping is of two kinds; kidnapping from British India, and kidnapping from lawful guardianship. Kidnapping.

360. Whoever conveys any person beyond the limits of British India without the consent of that person or of some person legally authorized to consent on behalf of that person, is said to kidnap that person from British India. Kidnapping from British India.

361. Whoever takes or entices any minor under fourteen years of age if a male, or under sixteen years of age if a female, or any person of unsound mind, Kidnapping from lawful guardianship.

out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation. The words "lawful guardian" in this Section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception. This Section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

Abduction.

362. Whoever by force compels, or by any deceitful means induces, any person to go from any place, is said to abduct that person.

Punishment for kidnapping.

363. Whoever kidnaps any person from British India or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting in order to murder.

364. Whoever kidnaps or abducts any person in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(*a*) A kidnaps Z from British India, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this Section.

(*b*.) A forcibly carries or entices B away from his home in order that B may be murdered. A has committed the offence defined in this Section.

Kidnapping or abducting with intent secretly and wrongfully to confine a person.

365. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting a woman to compel her marriage, &c.

366. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.

367. Whoever, kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Wrongfully concealing or keeping in confinement a kidnapped person.

368. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or keeps such person in confinement shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge or for the same purpose as that with or for which he conceals or detains such person in confinement.

Kidnapping or abducting child under ten years with intent to steal moveable property from the person of such child.

369. Whoever kidnaps or abducts any child under the age of ten years with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Buying or disposing of any person as a slave.

370. Whoever imports, exports, removes, buys, sells, or disposes of any person as a slave, or accepts, receives, or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Habitual dealing in slaves.

371. Whoever habitually imports, exports, removes, buys, sells, traffics or deals in slaves, shall be punished with transportation for life, or with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Selling of any minor for purposes of prostitution, &c.

372. Whoever sells, lets to hire, or otherwise disposes of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Buying of any minor for purposes of prostitution.

373. Whoever buys, hires, or otherwise obtains possession of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

374. Whoever unlawfully compels any person to labor against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both. Unlawful compulsory labor.

OF RAPE.

375. A man is said to commit "rape," who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions :— Rape.

First. Against her will.

Secondly. Without her consent.

Thirdly. With her consent, when her consent has been obtained by putting her in fear of death or of hurt.

Fouathly. With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly. With or without her consent, when she is under ten years of age.

Explanation. Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception. Sexual intercourse by a man with his own wife, the wife not being under ten years of age, is not rape.

376. Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Punishment for rape.

OF UNNATURAL OFFENCES.

377. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine. Unnatural offences.

Explanation. Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this Section.

CHAPTER XVII.
OF OFFENCES AGAINST PROPERTY
OF THEFT.

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft. Theft.

Explanation 1.—A thing so long as it is attached to the earth, not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is served from the earth.

Explanation 2.—A moving, effected by the same act which effects the severance, may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move every thing which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustration.

(*a*) A cuts down a tree on Z's ground with, the intention of dishonestly taking the tree out of Z's possession, without Z's consent. Here, as soon as A has severed the tree, in order to such taking, he has committed theft.

(*b*) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(*c*) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move A has committed theft of the treasure.

(*d*) A, being Z's servant, and intrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(*e*) Z going on a journey, entrusts his plate to A, the keeper of a ware house, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(*f*) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(*g*) A finds a ring lying on the high-road, not in the possession of any person. A, by taking it, commits no theft, though he may commit criminal misappropriation of property.

(*h*) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection, A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring commits theft.

(*i*) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(*j*) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(*k*) Again, if A having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(*l*) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly ; A has therefore committed theft.

(*m*) A being on friendly terms with Z, goes in to Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it and with the intention of returning it. Here it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(*n*) A asks charity from Z's wife. She gives A money, food, and clothes, which A knows to belong to Z her husband. Here, it is probable that A may conceive that Zs, wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(*o*) A is the paramour of Z's wife. She gives A valuable property, which A knows to belong to her husband Z , and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(*p*) A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take dishonestly, he does not commit theft.

Punishment for theft.

379. Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Theft in dwelling house, &c.

380. Whoever commits theft in any building, tent, or vessel which building, tent, or vessel is used as a human dwelling, or for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft by clerk or servant of property in possession of master.

381. Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft after preparation made for causing death or hurt, in order to the committing of the theft.

382. Whoever commits theft, having made preparation for causing death or hurt, or restraint, or fear of death or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(*a*) A commits theft on property in Z's possession ; and while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this Section.

(*b*) A picks Z's pocket, having posted several of his companions near him, in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this Section.

OF EXTORTION.

Extortion.

383. Whoever intentionally puts any person in fear of any injury to that person or to any other, an thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or any thing signed or sealed which may be converted into a valuable security, commits " extortion."

Illustration.

(*a*) A threatens to punish a defamatory libel concerning Z, unless Z gives him money, He thus induces Z to give him money. A has committed extortion.

(*b*) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(*c*) A threatens to send club-men to plough up Z's field, unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induce Z to sign and deliver the bond. Z has committed extortion.

(*d*) A by putting Z in fear of grievous hurt. dishonestly induces Z to sign or affix his seal to a blank paper, and deliver it to A. Z signs and delivers the paper to Z. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

384. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both. Punishment for extortion.

385. Whoever, in order to the committing of extortion, puts any person in fear or attempts to put any person in fear of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Putting person in fear of injury in order to commit extortion.

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. Extortion by putting a person in fear of death or grievous hurt.

387. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Putting person in fear of death or of grievous hurt, in order to commit extortion.

388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other of having committed or attempted to commit any offence punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the offence be one punishable under Section 377, may be punished with transportation for life. Extortion by threat of accusation of an offence punishable with death or transportation, &c.

389. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation against that person or any other, of having committed or attempted to commit, an offence punishable with death or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if the offence be punishable under Section 377, may be punished with imprisonment for life. Putting person in fear of accusation of offence, in order to commit extortion.

OF ROBBERY AND DACOITY.

390. In all robbery there is either theft or extortion.

Theft is "robbery," if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt or wrongful restraint, or fear of instant death or of instant hurt or of instant wrongful restraint. Robbery.

Extortion is "robbery," if the offender, at the time of committing the extortion, is in the presence of the person put in fear and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person or to some other person, and, by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations.

(*a*) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(*b*) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, and being at the time of committing the extortion in his presence. A has therefore committed robbery.

(*c*) A meets Z and Z's child on the high road. A takes the child and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z, by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(*d*) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand Rupees." This is extortion, and punishable as such; but it is not robbery unless Z is put in fear of the instant death of his child.

391. When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting, or aiding is said to commit "dacoity." Dacoity.

392. Whoever commits robbery shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if the robbery be committed on the highway between sun-set and sun-rise, the imprisonment may be extended to fourteen years. Punishment for robbery.

Attempt to commit robbery.

393. Whoever attempts to commit robbery shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Voluntarily causing hurt in committing robbery.

394. If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person, jointly concerned in committing or attempting to commit such robbery, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for dacoity.

395. Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to a fine.

Dacoity with murder.

396. If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine

Robbery or dacoity, with attempt to cause death or grievous hurt.

397. If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

Attempt to commit robbery or dacoity when armed with deadly weapon.

398. If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon the imprisonment with which such offender shall be punished shall not be less than seven years.

Making preparation to commit dacoity.

399. Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to gang of dacoits.

400. Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to a wandering gang of thieves.

401. Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Assembling for purpose of committing dacoity.

402. Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

OF CRIMINAL MISAPPROPRIATION OF PROPERTY.

Dishonest misappropriation of property.

403. Whoever dishonestly misappropriates or converts to his own use any moveable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a*) A takes property belonging to Z out of Z's possession, in good faith believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this Section.

(*b*) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But if A afterwards sells the book for his own benefit, he is guilty of an offence under this Section.

(*c*) A and B being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this Section.

Explanation 1. A dishonest misappropriation for a time only is a misappropriation within the meaning of this Section.

Illustration.

A finds a Government promissory note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan intending at a future time to restore it to Z. A has committed an offence under this Section.

Explanation 2. A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence: but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner, and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means, or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it: it is sufficient if at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

Illustrations.

(*a*) A finds a Rupee on the high road, not knowing to whom the Rupee belongs. A picks up the Rupee. Here A has not committed the offence defined in this Section.

(*b*) A finds a letter on the road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this Section.

(*c*) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person, who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favor the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this Section.

(*d*) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this Section.

(*e*) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this Section.

(*f*) A finds a valuable ring, not knowing to whom its belongs. A sells it immediately without attempting to discover the owner. A is guilty of an offence under this Section.

Dishonest misappropriation of property possessed by a deceased person at the time of his death.

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration.

Z dies in possession of furniture and money. His servant Z before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A, has committed the offence defined in this Section.

OF CRIMINAL BREACH OF TRUST.

Criminal breach of trust.

405. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust."

Illustrations.

(*a*) A being executor to the will of a deceased person, dishonestly disobeys the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

(*b*) A is a warehouse-keeper. Z, going on a journey, entrusts his furniture to A under contract that it shall be returned on payment of a stipulated sum for warehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.

(*c*) A, residing in Calcutta, is agent for Z residing at Delhi. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction Z remits a lac of Rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions, and employs the money in his own business. A has committed criminal breach of trust.

(*d*) But if A in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the bank of Bengal for Z, instead of buying Company's paper, here, though Z should suffer loss, and should be entitled to bring a civil action against A on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(*e*) A a revenue officer, is entrusted with public money, and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(*f*) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

Punishment for criminal breach of trust.

406. Whoever commits criminal breach of trust shall be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both.

Criminal breach of trust by carrier &c.

407. Whoever, being entrusted with property as a carrier, wharfinger, or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by a clerk or servant.

408. Whoever being a clerk or servant, or employed as a clerk or servant and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by public servant or by banker, merchant, or agent.

409. Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney, or agent, commits criminal breach of trust in respect of that property, shall be punished with transportation for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

OF THE RECEIVING OF STOLEN PROPERTY.

Stolen property.

410. Property the possession whereof has been transferred by theft, or by robbery, and property which has been criminally misappropriated or in respect of which the offence of criminal breach of trust has been committed, is designated as "stolen property." But if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

Dishonestly receiving stolen property.

411. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Dishonestly receiving property stolen in the commission of a dacoity.

412. Whoever dishonestly receives or retains any stolen property the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person whom he knows or has reason to believe to belong, or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Habitually dealing in stolen property.

413. Whoever habitually receives or deals in property which he knows or has reason to believe to be stolen property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Assisting in concealment of stolen property.

414. Whoever voluntarily assists in concealing or disposing of or making away with property which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

OF CHEATING.

Cheating.

415. Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation, or property, is said to "cheat."

Explanation. A dishonest concealment of facts is a deception within the meaning of this Section.

Illustrations.

(*a*) A, by falsely pretending to be in the Civil Service, intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(*b*) A, by putting a counterfeit mark on an article intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(*c*) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(*d*) A, by tendering in payment for an article, a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonoured, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(*e*) A by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(*f*) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him, and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(g) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat; but is liable only to a civil action for breach of contract.

(h) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats

(i) A sells and conveys an estate to B. A knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

Cheating by personation.

416. A person is said to "cheat by personation," if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation. The offence is committed whether the individual personated is a real or imaginary person.

Illustrations.

(a) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(b) A cheats pretending to be B, a person who is deceased. A cheats by personation.

Punishment for cheating.

417. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect.

418. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment or cheating by personation.

419. Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Cheating and dishonestly inducing a delivery of property.

420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

OF FRAUDULENT DEEDS AND DISPOSITIONS OF PROPERTY.

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

421. Whoever dishonestly or fraudulently removes, conceals or delivers to any person or transfers or causes to be transferred to any person, without adequate consideration, any property intending thereby to prevent, or knowing it to be likely that he will thereby prevent, the distribution of that property according to law among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonestly or fraudulently preventing from being made available for his creditors a debt or demand due to the offender.

422. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration.

423. Whoever dishonestly or fraudulently signs, executes, or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property.

424. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

OF MISCHIEF.

Mischief.

425. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public or to any person, causes the destruction of

any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility or affects it injuriously, commits "mischief."

Explanation 1. It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2. Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations.

(*a*) A, voluntarily burns a valuable security belongingt o Z, intending to cause wrongful loss to Z. A has committed mischief.

(*b*) A, introduces water into an ice house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(*c*) A, voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(*d*) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(*e*) A, having insured a ship, voluntarily causes the same to be cast away, with the intention of causing damage to the underwriters. A has committed mischief.

(*f*) A causes a ship to be cast away, intending thereby to cause damage to Z, who has lent money on bottomry on the ship. A has committed mischief.

(*g*) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(*h*) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

Punishment for committing mischief.

426. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Committing mischief and thereby causing damage to the amount of Fifty Rupees.

427. Whoever commits mischief and thereby causes loss or damage to the amount of Fifty Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming any animal of the value of Ten Rupees.

428. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any animal or animals of the value of ten Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming cattle, &c. or any animal of the value of Fifty Rupees.

429. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow, or ox, whatever may be the value thereof, or any other animal of the value of Fifty Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to works of irrigation or by wrongfully diverting water.

430. Whoever commits mischief by doing any act which causes or which he knows to be likely to cause a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness, or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to public road, bridge, or river.

431. Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river, or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by causing inundation or obstruction to public drainage attended with damage.

432. Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by destroying or moving or rendering less useful a light-house or sea-mark or by exhibiting false lights.

433. Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark or any sea-mark, or buoy, or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy, or other such thing as aforesaid less useful as a guide for navigators, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Mischief by destroying or moving &c. a land mark fixed by public authority.

434. Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

435. Whoever commits mischief by fire or any explosive substance, intending to cause or knowing it to be likely that he will thereby cause damage to any property to the amount of one hundred Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine,

Mischief by fire or explosive substance with intent to cause damage to amount of 100 Rupees.

436 Whoever commits mischief by fire or any explosive substance, intending to cause or knowing it to be likely that he will thereby cause the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to destroy a house, &c.

437. Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy or render unsafe or knowing it to be likely that he will thereby destroy or render unsafe that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.

438. Whoever commits or attempts to commit, by fire or any explosive substance, such mischief as is described in the last preceding Section, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for the mischief described in the last Section when committed by fire or any explosive substance.

439. Whoever intentionally runs any vessel aground or ashore, intending to commit theft of any property contained therein or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, &c.

440. Whoever commits mischief, having made preparation for causing to any person death or hurt or wrongful restraint, or fear of death or of hurt or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Mischief if committed after preparation made for causing death or hurt.

OF CRIMINAL TRESPASS.

441. Whoever enters into or upon property in the possession of another, with intend to commit an offence or to intimidate, insult, or annoy any person in possession of such property; or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult, or annoy any such person, or with intent to commit an offence, is said to commit criminal trespass.

Criminal trespass.

442. Whoever commits criminal trespass by entering into or remaining in any building, tent, or vessel used as a human dwelling, or any building used as a place for worship or as a place for the custody of property, is said to commit "house-trespass."

House-trespass.

Explanation. The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

443. Whoever commits house-trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent, or vessel which is the subject of the trespass, is said to commit "lurking house-trespass.

Lurking house-trespass.

444. Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night."

Lurking house-trespass by night.

445. A person is said to commit "house-breaking," who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say:—

House-breaking.

First. If he enters or quits through a passage made by himself, or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly. If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly. If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-trespass, by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly. If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly. If he effects his entrance or departure by using criminal force or committing an assault or by threatening any person with assault.

Sixthly. If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation. Any out-house or building occupied with a house and between which and such house there is an immediate internal communication, is part of the house within the meaning of this Section.

Illustrations.

(*a*) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.

(*b*) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(*c*) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(*d*) A commits house-trespass by entering Z's house through the door, having opened a door which was fastened. This is house-breaking.

(*e*) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(*f*) A finds the key of Z's house door, which had lost and commits house-trespass by entering Z's house, having opened the door with that key. This is house-breaking.

(*g*) Z is standing in his door-way. A forces a passage by knocking Z down, and commits house-trespass by entering the house. This is house-breaking.

(*h*) Z, the door-keeper of Y, is standing in Y's door-way, A commits house-trespass by entering the house, having deterred Z from oposing him by threatening to beat him. This is house-breaking.

House-breaking by night.

446. Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night."

Punishment for criminal trespass.

447. Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to Five Hundred Rupees, or with both.

Punishment for house-trespass.

448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to One Thousand Rupees, or with both.

House-trespass in order to the commission of the offence punishable with death.

449. Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with transportation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with transportation for life.

450. Whoever commits house-trespass in order to the committing of any offence punishable with transportation for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with imprisonment.

451. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-trespass after preparation made for causing hurt to any person.

452. Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking.

453. Whoever commits lurking house-trespass or house-breaking shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.

454. Whoever commits lurking house-trespass or house-breaking in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Lurking house-trespass or house-breaking after preparation made for causing hurt to any person.

455. Whoever commits lurking house-trespass or house-breaking having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint. shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishable for lurking house-trespass or or house-breaking by night.

456. Whoever commits lurking house-trespass by night or house-breaking by night, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

457. Whoever commits lurking house-trespass by night or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.

458. Whoever commits lurking house-trespass by night or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt or of assault or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Lurking house trespass or house-breaking by night after preparation made for causing hurt to any person.

459. Whoever, whilst committing lurking house-trespass or house-breaking, causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

460. If, at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

All persons jointly concerned in house-breaking, &c., to be punishable for death or grievous hurt caused by one of their number.

461. Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Dishonestly breaking open any closed receptacle containing or supposed to contain property.

462. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for same offence when committed by person entrusted with custody.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY-MARKS.

463. Whoever makes any false document or part of a document with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Forgery.

464. A person is said to make a false document.—

First.—Who dishonestly or fraudulently makes, signs, seals, or executes a document or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document, was made, signed, sealed, or executed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed, or at a time, at which he knows that it was not made signed, sealed, or executed; or,

Making of false document.

Secondly.—Who, without lawful authority, dishonestly or fraudulently by cancellation or otherwise alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or,

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute, or alter a document, knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not know the contents of the document or the nature of the alteration.

Illustrations.

(*a*) A has a letter of credit upon B for Rupees 10,000, written by Z. A, in order to defraud B, adds a cypher to the 10,0000, and makes the sum 100,000, intending that it may be believed by B that Z so wrote the letter A has committed forgery.

(*b*) A, without Z's authority, affixes Z's seal to a document purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the purchase money. A has committed forgery.

(c) A picks up a cheque on a Banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand Rupees. A commits forgery.

(d) A leaves with B, his agent, a cheque on a Banker, signed by A, without inserting the sum payable, and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand Rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand Rupees. B commits forgery.

(e) A draws a Bill of Exchange on himself in the name of B without B's authority, intending to discount it as a genuine Bill with a Banker and intending to take up the Bill on its maturity. Here, as A draws the Bill with intent to deceive the Banker by leading him to suppose that he had the security of B, and thereby to discount the Bill, A is guilty of forgery.

(f) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B and C." A dishonestly scratches out B's, name, intending that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A endorses a Government Promissory Note and makes it payable to Z, or his order, by writing on the Bill the words "Pay to Z, or his order" and signing the endorsement. B dishonestly erases the words "Pay to Z or his order" and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(i) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(j) A writes a letter and signs it with B's name without B's authority certifying that A is a man of good character and in distressed circumstances from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here, as A made a false document in order to induce Z to part with property, A has committed forgery.

(k) A without B's authority writes a letter and signs it in B's name certifying to A's character, intending thereby to obtain employment under Z A has committed forgery, inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an expressed or implied contract for service.

Explanation 1. A man's signature of his own name may amount to forgery.

Illustrations.

(a) A signs his own name to a Bill of Exchange, intending that it may be believed that the Bill was drawn by another person of the same name. A has committed forgery.

(b) A writes the word "accepted" on a piece of paper and signs it with Z's name, in order that B may afterwards write on the paper a Bill of Exchange drawn by B upon Z and negotiate the Bill as though it had been accepted by Z. A is guilty of forgery; and if B knowing the fact draws the Bill upon the paper pursuant to A's intention, B, is also guilty of forgery.

(c) A picks up a Bill of Exchange payable to the order of a different person of the same name. A endorses the Bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable: here A has committed forgery.

(d) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate, in collusion with Z, execute a lease of the estate to Z at a nominal rent and for a long period, and dates the lease six months prior to the seizure with intent to defraud A and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name commits forgery, by antedating it.

(e) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit, and with intent to defraud his creditors, and in order to give a color to the transaction writes a Promissory Note binding himself to pay to B a sum for value received and antedates the note intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2. The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person intending it to be believed that the document was made by the person in his life-time, may amount to forgery.

Illustration.

A draws a Bill of Exchange upon a fictitious person, and fraudulently accepts the Bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

Punishment for forgery.

465. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Forgery of a record of a Court of Justice, or of a public Register of Birth, &c.

466. Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a Register of Birth, Baptism, Marriage, or Burial, or a Register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity. or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

467. Whoever forges a document which purports to be a valuable security or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal, interest, or dividends thereon, or to receive or deliver any money, moveable property, or valuable security, or any document purporting to be an acquittance or receipt acknowledging the payment of money, or an acquittance or receipt for the delivery of any moveable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Forgery of a valuable security or will.

468. Whoever commits forgery intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery for the purpose of cheating.

469. Whover commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term, which may extend to three years, and shall also be liable to fine.

Forgery for the purpose of harming the reputation of any person.

470. A false document made wholly or in part by forgery is designated "a forged document."

"A forged document."

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

Using as genuine a forged document.

472. Whoever makes or counterfeits any seal, plate or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under Section 467, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with transportation for life, for with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing a counterfeit seal plate, &c., with intent to commit a forgery, punishable under Section 467.

473. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any Section of this Chapter other than Section 467, or with such intent has in his possession any seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable otherwise.

474. Whoever has in his possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in Section 446, be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine ; and if the document is one of the description mentioned in Section 467, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a valuable security or will known to be forged with intent to use it as genuine.

475. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpose of authenticating any document described in Section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents described in Section 467, or possessing counterfeit marked material

476. Whoever counterfeits upon or in the substance of any material any device or mark used for the purpopse of authenticating any document other than the document described in Sectin 476, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents other than those described in Section 487, or possessing counterfeit marked material.

477. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys, or attempts to cancel, destroy, or deface, or secretes or attempts to secrete, any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulent cancellation, &c., of a will.

OF TRADE AND PROPERTY-MARKS.

Trade-mark.

478. A mark used for denoting that goods have been made or manufactured by a particular person or at particular time or place, or that they are of a particular quality, is called a trade-mark.

Property-mark.

479. A mark used for denoting that moveable property belongs to a particular person, is called a property-mark.

Using of a false trade mark.

480. Whoever marks any goods, or any case, package, or other receptacle containing goods, or uses any case, package, or other receptacle with any mark thereon, with the intention of causing it to be believed that the goods so marked, or any goods contained in any such case, package, or receptacle so marked, were made or manufactured by any person by whom they were not made or manufactured, or that they were made or manufactured at any time or place at which they were not made or manufactured, or that they are of a particular quality of which they are not, is said to use a false trade-mark.

Using a false property mark.

481. Whoever marks any moveable property or goods, or any case, package, or other receptacle containing moveable property or goods, or uses any case, package, or other receptacle having any mark thereon, with the intention of causing it to be believed that the property or goods so marked, or any property or goods contained in any case, package, or other receptacle so marked belong to a person to whom they do not belong, is said to use a false property-mark.

Punishment for useing a false trade or property mark with intent to deceive or injure any person.

482. Whoever uses any false trade-mark or any false property-mark with intent to deceive or injure any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Counterfeiting a trade or property mark used by another with intent to cause damage or injury.

483. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any trade or property-mark used by any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a property mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.

484. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any property-mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person or at a particular time or place, or that the same is of a particular quality, or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Fraudulent making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.

485. Whoever makes or has in his possession any die, plate, or other instrument for the purpose of making or counterfeiting any public or private property or trade-mark, with intent to use to the same for the purpose of counterfeiting such mark, or has in his possession any such property or trade-mark with intent that the same shall be used for the purpose of denoting that any goods or merchandize were made or manufactured by any particular person or firm by whom they were not made, or at a time or place at which they were not made, or that they are of a particular quality of which they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Knowingly selling goods marked with a counterfeit property or trade-mark.

486. Whoever sells any goods with a counterfeit property or trade-mark whether public or private, affixed to or impressed upon the same or upon any case, wrapper or receptacle in which such goods are packed or contained, knowing that such mark is forged or counterfeit, or that the same has been affixed to, or impressed upon any goods or merchandize not manufactured or made by the person or at the time or place indicated by such mark, or that they are not of the quality indicated by such mark, with intent to deceive, injure, or damage any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulently making a false mark upon any package or receptacle containing goods.

487. Whoever fraudulently makes any false mark upon any package or receptacle containing goods, with intent to cause any public servant or any other person to believe that such package or receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such package or receptacle are of a nature or quality different from the real nature or quality thereof, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

488. Whoever fraudulently makes use of any such false mark with the intent last aforesaid, knowing such mark to be false, shall be punished in the manner mentioned in the last preceding Section.

Defacing any property-mark with intent to cause injury.

489. Whoever removes, destroys, or defaces any property-mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be

punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIX.

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

Breach of contract of service during a voyage or journey.

490. Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person or any property from one place to another place, or to act as servant to any person during a vovage or journey, or to guard any person or property during a voyage or journey, voluntarily omits so to do, except in the case of illness or ill-treatment, shall be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred Rupees, or with both.

Illustrations.

(*a*) A, a palanquin bearer, being bound by legal contract to carry Z from one place to another, runs away in the middle of the stage. A has committed the offence defined in this Section.

(*b*) A, a cooly, being bound by lawful contract to carry Z's baggage from one place to another throws the baggage away. A has committed the offence defined in this Section.

(*c*) A, a proprietor of bullocks, being bound by legal contract to convey goods on his bullocks from one place to another, illegally omits to do so. A has committed the offence defined in this Section.

(*d*) A, by unlawful means, compels B, a cooly, to carry his baggage. B in the course of the journey puts down the baggage and runs away. Here, as B was not lawfully bound to carry the baggage, he has not committed any offence.

Explanation. It is not necessary to this offence that the contract should be made with the person for whom the service is to be performed. It is sufficient if the contract is legally made with any person, either expressly or impliedly, by the person who is to perform the service.

Illustration.

A contracts with a Dak Company to drive his carriage for a month. B employs the Dak Company to convey him on a journey, and during the month the Company supplies B with a carriage which is driven by A. A in the course of the journey voluntarily leaves the carriage. Here, although A did not contract with B, A is guilty of an offence under this Section.

Breach of contract to attend on and supply the wants of helpless persons.

491. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred Rupees, or with both.

Breach of a contract to serve at a distant place to which the servant is conveyed at the master's expense.

492. Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman, or laborer, for a period not more than three years, at any place within British India to which by virtue of the contract he has been or is to be conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuses to perform the service which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both; unless the employer has ill-treated him or neglected to perform the contract on his part.

CHAPTER XX.

OF OFFENCES RELATING TO MARRIAGE.

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

493. Every man who by deceit causes any woman who is not lawfully married to him, to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marrying again during the life-time of husband or wife.

494. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This Section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife at the time of the subsequent marriage

shall have been continually absent from such person for the space of seven years, and shall not have been heard of by shch person as being alive within that time, provided the person contracting such subsequent marriage, shall before such marriage takes place, inform the person with whom such marriage is contracted, of the real state of facts so far as the same are within his or her knowledge.

Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.

495. Whoever commits the offence defined in the last preceding Section having concealed from the person with whom the subsequent marriage is contracted the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marriage ceremony gone through with fraudulent intent without lawful Marriage.

496. Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Adultery.

497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonmont of either description of a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

Enticing or taking away or detaining with a criminal intent a married woman.

498. Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man, or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals, or detains with that intens any such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XXI.

OF DEFAMATION.

Defamation.

499. Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person, intending to harm or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Explanation 1. It may amount to defamation to impute any thing to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2. It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3. An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4. No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations.

(*a*) A says—" Z is an honest man ; he never stole B's watch ; " intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the exception.

(*b*) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

(*c*) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the exceptions.

First Exception. It is not defamation to impute any thing which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Second Exception. It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Third Exception. It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

Illustrations.

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such a meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception. It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Explanation. A Justice of the Peace or other Officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above Section.

Fifth Exception. It is not defamation to express in good faith any opinion whatever respecting the merits of any case, Civil or Criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness, or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no farther.

Illustrations.

(*a*) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this Exception if he says this in good faith; inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no farther.

(*b*) But if A says—"I do not believe what Z asserted at that trial, because I know him to be a man without veracity;"—A is not within this Exception inasmuch as the opinion which he expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

Sixth Exception. It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Explanation. A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations.

(*a*) A person who publishes a book, submits that book to the judgment of the public.

(*b*) A person who makes a speech in public, submits that speech to the judgment of the public.

(*c*) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(*d*) A says of a book published by Z—"Z's book is foolish, Z must be a weak man. Z's book is indecent, Z must be a man of impure mind." A is within this exception, if he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no farther.

(*e*) But if A says—"I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine." A is not within this exception inasmuch as the opinion which he expresses of Z's character is an opinion not founded on Z's book.

Seventh Exception. It is not defamation in a person having over another any authority, either conferred by law, or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustrations.

A Judge censuring in good faith the conduct of a witness, or of an officer of the Court, a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent, censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his Bank for the conduct of such cashier as such cashier—are within this exception.

Eighth exception. It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person with respect to the subject matter of accusation.

Illustration.

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father—A is within this exception.

Ninth Exception. It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Illustrations.

(*a*) A shop-keeper says to B, who manages his business—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the exception, if he has made this imputation on Z in good faith for the protection of his own interests.

(*b*) A, a Magistrate, in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith and for the public good, A, is within the exception

Tenth Exception. It is not defamation to convey a caution, in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed or of some person in whom that person is interested, or for the public good.

Punishment for defamation.

500. Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Printing or engraving matter known to be defamatory.

501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Sale of printed or engraved substance containing defamatory matter.

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CHAPTER XXII.

OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.

Criminal intimidation.

503. Whoever threatens another with any injury to his person, reputation, or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this Section.

Illustration.

A, for the purpose of inducing B to desist from prosecuting a civil suit, threatens to burn B's house. A is guilty of criminal intimidation,

Intentional insult with intent to provoke a breach of the peace.

504. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Circulating false report with intent to cause mutiny or an offence against the State.

505. Whoever circulates or publishes any statement, rumour, or report which he knows to be false, with intent to cause any officer, soldier, or sailor in the Army or Navy of the Queen to mutiny, or with intent to cause fear or alarm to the public, and thereby to induce any person to commit an offence against the State or against the public tranquillity, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both.

Punishment for criminal intimidation.

If threat be to cause death or grievous hurt &c.

506. Whoever commits the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years or with fine, or with both; and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Criminal intimidation by an anonymous communication.

507. Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding Section.

Act caused by inducing a person to believe that he will be rendered an object of the divine displeasure.

508. Whoever voluntarily causes or attempts to cause any person to do any thing which that person is not legally bound to do, or to omit to do any thing which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object the offender to cause him to omit, shall be

punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Illustrations.

(*a*) A sits dhurna at Z's door, with the intention of causing it to be believed that by so sitting he renders Z an object of divine displeasure. A has committed the offence defined in this Section.

(*b*) A threatens Z that unless Z performs a certain act. A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of divine displeasure. A has committed the offence defined in this Section.

Word or gesture intended to insult the modesty of a woman.

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Misconduct in public by a drunken person.

510. Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten Rupees, or with both.

CHAPTER XXIII

OF ATTEMPTS TO COMMIT OFFENCES.

Punishment for attempting to commit offences punishable with transportation or imprisonment.

511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall, were no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence, for a term of transportation or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(*a*) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guity under this Section.

(*b*) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket: A is guilty under this Section.

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* ACT No. XLVI OF 1860.

(Received the assent of the Governor General on the 6th October 1860.)

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1. Acts repealed.
2. Nomination of Agents for Calcutta, Madras, and Bombay. Proviso.—
3. Powers of Agents.
4. Operations of recruitment.
5. Protector of Emigrants.
6. Contracts of service, with certain exceptions, to be made in India. Effect of contract.
7. Matters to be provided for in contract.
8. Emigrant ships to be licensed. Fee for license. Master of ship to give Bond. Penalty if ship be not licensed.
9. Master of vessel not to receive on board any Emigrant without a certificate. Certificate what to state, &c.
10. Protector to hold personal conference with every Emigrant before embarkation. Enquiries to be made in public.
11. Before Port-clearance, Master of Ship to obtain certificate from Emigration Agent stating—
12. Probable length of voyage.

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* *See* Act VII of 1862.

13. Time of sailing.
14. Emigrant vessel to carry an European Surgeon and an Interpreter. Captain to take charge of Despatches from the Protector to the British Consular Agent.
15. Space to be set apart for Emigrants on Board-ship.
16. Amount or proportion of provisions to be carried by Emigrant vessel over and above the victualling of the crew. Proviso.
17. Before Port-clearance Master of vessel to obtain a Survey Certificate.
18. Up to what time Master of vessel to furnish Emigrants with provisions.
19. Emigrant vessel to carry copies and translations of the Regulations.
20. Master to deliver list to Emigration Agent.
21. Penalty for non-compliance with particulars required before clearance.
22. Penalty for taking on board, after clearance, Emigrants not entered in list.
23. Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.
24. Custom House Officers and Pilots to exercise, for the purposes of this Act certain powers vested in the former for the prevention of smuggling.
25. Custom House Officers and Pilots at Calcutta to countersign papers. To muster crew and passengers and Emigrants. Report of Emigrants on board. Penalty.
26. Punishment for forgery of document required by this Act.
27. Penalties how to be enforced.
28. Levy of fines.
29. Numerical proportion of women to men by each shipment.
30. Protector to have right of access to every part of the ship.
31. Act when to take effect.

An Act to authorize and regulate the Emigration of Native laborers to the French Colonies.

Whereas a Convention has been negotiated between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French comprising the following Articles:—

ARTICLE I.

The French Government shall be at liberty to recruit and engage laborers for the French Colonies in the Indian Territories belonging to Great Britain, and to embark Emigrants, being subjects of Her Britannic Majesty, either in British or French Ports in India, under the conditions hereinafter stipulated.

ARTICLE II.

The French Government shall intrust the direction of its operations in every centre of recruitment to an Agent chosen by itself.

Those Agents must be approved by the British Government.

Such approval is assimilated, with regard to the right of granting and withdrawal, to the Exequatur given to Consular Agents.

ARTICLE III.

This recruitment shall be effected conformably to the regulations which now exist, or may hereafter be established, for the recruitment of laborers for British Colonies.

ARTICLE IV.

The Frence Agent shall, with regard to the operations of recruitment which are intrusted to him, enjoy for himself and for the persons whom he may employ, all the facilities and advantages afforded to the recruiting Agents for British Colonies.

ARTICLE V.

The Government of Her Britannic Majesty shall appoint in those British Ports where Emigrants may be embarked, an Agent who shall be specially charged with the care of their interests.

In French Ports the same duty with regard to Indian subjects of Her Britannic Majesty shall be confided to the British Consular Agent.

Under the term "Consular Agents" are comprised Consuls, Vice-Consuls, and all other Commissioned Consular Officers.

ARTICLE VI.

No Emigrant shall be embarked unless the Agent described in the preceding Article shall have been enabled to satisfy himself either that the Emigrant is not a British subject or, if a British subject, that his engagement is voluntary, that he has a perfect knowledge of the nature of his contract, of the place of

his destination, of the probable length of his voyage, and of the different advantages connected with his engagement.

ARTICLE VII.

The contracts of service, with the exception provided for by Section 4 of Article IX, and by Section 2 of Article X, shall be made in India, and shall either bind the Emigrant to serve a person designated by name, or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony.

ARTICLE VII.

The contracts shall, moreover, make stipulation for—

1. The duration of the engagement, at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2. The number of days and hours of work.

3. The wages and rations, as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

4. Gratuitous medical treatment for the Emigrant, except in cases where in the opinion of the proper Government Officer, his illness shall have arisen from his own misconduct.

In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX, and XXI, of the present Convention.

ARTICLE IX.

1. The duration of the Immigrant's engagement shall not be more than five years. In case, however, he shall be duly proved to have absented himself from work, he shall be bound to serve a number of days equal to the time of his absence.

2. At the expiration of that period, every Indian who shall have attained the age of ten years at the time of his departure from India, shall be entitled to a return-passage at the expense of the French Government.

3. If he can shew that his conduct has been regular, and that he has the means of subsistence, he may be allowed to reside in the Colony without any engagement; but from that time he will lose his right to a free return-passage.

4. If he consents to contract a new engagement, he will be entitled to a bounty, and will retain his right to a return-passage at the expiration of this second engagement.

The right of the Immigrant to a return-passage extends to his wife, and to his children who quitted India under the age of ten years, as well as to those born in the Colonies.

ARTICLE X.

The Immigrant shall not be bound to work more than six days in seven, nor more than nine hours and a half a day.

The conditions of task-work and every other kind of regulation for work, shall be freely arranged with the laborer. The obligation to provide, on holidays, for the care of animals and the necessities of daily life, shall not be considered as work.

ARTICLE XI.

In British Ports, the arrangements which precede the departure of the Emigrants shall be conformable to those prescribed by the regulations for the British Colonies.

In French Ports, the Emigration Agent or his deputies shall on the departure of every Emigrant ship, deliver to the British Consular Agent a nominal list of the Emigrants who are subjects of Her Britannic Majesty, with a description of their persons, and shall also communicate to him the contracts of which he may require copies.

In such case, only one copy shall be given of all contracts of which the provisions are identical.

ARTICLE XII.

In the Ports of embarkation, the Emigrants who are subjects of Her Britannic Majesty shall be at liberty, conforming to the regulations of Police relative to such establishments, to leave the Depots, or other place in which they may be lodged, in order to communicate with the British Agents, who on their part may at any reasonable hour visit the places in which the Emigrants, subjects of Her Britannic Majesty, are collected or lodged.

ARTICLE XIII.

Emigrants may leave India for the Colonies to the East of the Cape of Good Hope at all times of the year.

For other Colonies they may leave only from the 1st of August to the 15th of March. This arrangement applies only to sailing vessels; vessels using steam power may leave at any time of the year.

Every Emigrant sailing from India for the Antilles, between the 1st of March and the 15th of the September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

ARTICLE XIV.

Every Emigrant vessel must carry an European Surgeon and an Interpreter.

The Captains of Emigrant vessels shall be bound to take charge of any despatch which may be delivered to them by the British Agent at the Port of embarkation for the British Consular Agent at the Port of destination, and to deliver it to the Colonial Government immediately after his arrival.

ARTICLE XV.

In every vessel employed for the conveyance of Emigrants, subjects of Her Majesty, the Emigrants shall occupy, either between decks, or in cabins on the uper-deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height ot not less than five feet and half.

No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal and at Chandernagore, and for every cubic space of sixty feet in other French Ports, and in the Presidencies of Bombay and Madras.

An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

A place shall be fitted up for a hospital in every Emigrant ship.

Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

ARTICLE XVI.

Each shipment of Emigrants shall include a proportion of women equal to at least one-fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third; after two years more, it shall be raised to one-half; and after a further period of two years, the proportion shall be the same as may be fixed for the British Colonies.

ARTICLE XVII.

The British Agents at the embarkation shall have, at all reasonable times, the right of access to every part of the ship which is appropriated to the use of Emigrants.

ARTICLE XVIII.

The Governors of the French establishments in India shall make such administrative regulations as may be necessary to ensure the complete execution of the preceding stipulations.

ARTICLE XIX.

On the arrival of an Emigrant ship in any French Colony, the Government shall cause to be transmitted to the British Consular Agent any despatches which it may have received for him, together with—

1. A nominal list of all laborers disembarked who are subjects of Her Britannic Majesty.

2. A list of the deaths or births which may have taken place during the voyage.

The Colonial Government shall take the necessary measures to enable the British Consular Agent to communicate with the Emigrants before their distribution in the Colony.

A copy of the "List of distribution" shall be delivered to the Consular Agent.

He shall be informed of all deaths and births which may occur during the period of engagement, as well as of all changes of employer, and of all departures on a return-passage.

Every fresh engagement, or act of renunciation of the right to a free return-passage, shall be communicated to the Consular Agent.

ARTICLE XX.

All Immigrants, being subjects of Her Britannic Majesty, shall in the same manner as other subjects of the British Crown, and conformably to the ordinary rules of international law, enjoy in the French Colonies, the right of claiming the assistance of the British Consular Agents, and no obstacle shall be opposed to the laborer's resorting to the Consular Agent and communicating with him; without prejudice, however, to the obligations arising out of his engagement.

ARTICLE XXI.

In the distribution of laborers no husband shall be separated from his wife, nor any father or mother from their children under fifteen years of age. No laborer shall be required to change his employer without his own consent, unless he be transferred to the Government, or to the person who has acquired the property on which he is employed.

Immigrants who may become permanently incapable of work, either by sickness or by any other cause beyond their own control, shall be sent back at the expense of the French Government, whatever time may still be wanting to entitle them to a free return-passage.

ARTICLE XXII.

All operations of immigration may be carried on in the French Colonies by French or British vessels without distinction.

British vessels which may engage in those operations shall be bound to conform to all the measures of Police, health, and equipment which may apply to French vessels.

ARTICLE XXIII.

The labor regulations of Martinique shall serve as the basis for all the regulations of the French Colonies into which Indian Emigrants, subject of Her Britannic Majesty, may be introduced.

The French Government engages not to introduce into those regulations any modification, the result of which would be to place the said Indian subjects in an exceptional position, or to impose upon them conditions of labor more stringent than those prescribed by the said regulations.

ARTICLE XXIV.

The present Convention applies to emigration to the Colonies of Re-Union, Martinique, Guadeloupe and its dependencies, and Guiana.

It may hereafter be applied to immigration to other Colonies in which British Consular Agents shall be established.

ARTICLE XXV.

The provisions of the present Convention relative to the Indian subjects of Her Britannic Majesty shall apply to the Natives of every Indian State which is under the protection or political control of Her said Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

ARTICLE XXVI. *

I. Repealed by Act XIV. of 1870.

II. The French Government may nominate a person to be Emigration Agent under this Act for each of the Ports of Calcutta, Madras, and Bombay. Provided, that such person before, entering on the duties of his office under this Act, shall have been approved by her Majesty.

Nomination of Agents for Calcutta, Madras, and Bombay. Proviso.

III. The Emigration Agents so nominated and approved as aforesaid shall be authorized, under the conditions prescribed in this Act, to recruit and engage Native laborers for all or any of the French Colonies aforesaid.

Powers of Agents.

IV. The said Emigration Agents shall act, in conformity with the regulations now or hereafter existing for the recruitment of Native laborers for British Colonies, and shall, with regard to the operations of recruitment which are entrusted to them, enjoy for themselves and the persons whom they may employ in the management of the said operations, all the facilities and advantages afforded to the Emigration Agents for British Colonies.

Operations of recruitment.

V. The protector of Emigrants at each of the three British Ports aforesaid, shall act for the British Government as protector of laborers emigrating under the provisions of this Act. In French Ports in India the duty confided to the British Consular Agents by Articles V of the said Convention shall be performed

Protector of Emigrants.

* Act VII 1862 substitutes another article for article XXVI and also cites two articles added to the convention after the passing of this Act.

under such instruction as may be given by the Governor General in Council on that behalf.

Contracts of service, with certain exceptions, to be made in India. Effect of contract.

VI. All contracts of service made with laborers emigrating under this Act, except the contracts mentioned in Section IV of article IX and Section II of article X of the above recited Convention, shall be made in India, and shall bind the Emigrant either to serve a person designated by name or to serve a person to whom he shall be allotted by the proper authority on his arrival in the colony to which he emigrates.

Matters to be provided for in contract.

VII. The contracts of service shall be in accordance with the terms of the said Convention, and shall make provision for—

1. The duration of the engagement at the expiration of which the Emigrant shall receive a return passage to India at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2. The number of days and hours of work.

3. The wages and rations as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

4. Gratuitous medical treatment for the Emigrant, except an cases where in the opinion of the proper Government Officer, his illness shall have arisen from his own misconduct.

5. In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX, and XXI, of the Convention hereinbefore recited.

Emigrant ships to be licensed.

Fee for license.

Master of ship to give Bond.

Penalty if ship be not licensed.

VIII. It shall not be lawful to convey any Emigrant, being a native of India, who may embark for the purpose of laboring for hire in any one of the said Colonies from any of the three British Ports aforesaid in any ship or vessel, unless a license be obtained for carrying Emigrants in any such ship or vessel from the Government of the Presidency in which the Port is situated. A fee, not exceeding 1 Rupee per Emigrant, as may be regulated from time to time by the local Government, shall be demandable in respect of every such license, which fee shall be carried to the credit of the said Government, and the granting or withholding any such license shall be entirely discretionary with the Government ; and in consideration of such license the Master of every ship conveying or destined to convey Emigrants from India, shall execute a Bond binding him self and his owners in a penal sum of 10,000 Rupees to conform to the several conditions herein provided, and the said Bond shall be executed in duplicate, that it may be put in suit either at the place of execution or in the Colony to which the Emigrants are to be conveyed, and one copy shall be forwarded to the British Consular Agent at such Colony, to be dealt with as the case may require. And every ship or vessel in which any such Emigrant shall be embarked without a license being obtained as aforesaid, shall be liable to be forfeited, and the Master thereof shall be liable as for a misdeameanor, to a fine of 100 Rupees for every such Emigrant so illegally embarked.

Master of vessel not to receive on board any emigrant without a certificate.

Certificate what to state. &c.

IX. It shall not be lawful for the Master of any vessel licensed as abovementioned to receive on board any Eminrant laborer, as above provided, unless such laborer shall have in his possession and shew a certificate or pass, to be given to him by the Emigration Agent of the Port under this Act, countersigned by the Protector of Emigrants, stating his name and the name of his father, and his age, and certifying that, having appeared before such Agent, he has declared his willingness to proceed to work for hire in the Colony to which such vessel is bound, and has been engaged by him as an Emigrant to such Colony on the part of the Government thereof.

Protector to hold personal conference with every Emigrant before embarktion.

Enquiries to be made in public.

X. The Protector of Emigrants shall ascertain, by personal communication with every Emigrant previously to his or her embarkation from the Port or place for which such Protector shall have been appointed, that such Emigrant has not been induced to emigrate by any fraud or by any false or unreasonable expectation, and is aware of the distance of the Colony to which he or she is about to emigrate from the place where he or she is about to embark and that the real advantages likely to be derived from a removal to such Colony have been explained to such Emigrant, and that such Emigrant has been duly cautioned against unreasonable and unwarrantable expectations; and that every such Emigrant is in good health and not incapacitated from labor by old age, bodily infirmity, or disease ; provided that every such Protector shall make the enquiries specified in such Section in an open Court or public Office to which all persons shall have admission.

Before Port-clearance, Master of Ship to obtain certificate from Emigration Agent.

XI. Before ony ship or vessel, so licensed to carry Emigrant laborers as above provided, shall be cleared out from any of the aforesaid Ports for any of the Colonies aforesaid it shall be necessary for the Master of such ship or vessel, provided any Emigrant of the description aforesaid shall embark therein, to obtain

from the Protector of Emigrants at such Port as aforesaid, a certificate, under the hand of such Protector, to the effect following, that is to say—

First.—That such Protector has by personal communication done what is required on the part of such Protector by the last preceding Section of this Act.

Second.—That all the directions contained in this Act for ensuring the health and safety of passengers have been duly complied with.

Third.—That such rules have been complied with as the Governor-General in Council shall from time to time frame touching the Medical attendance and Medical stores and the proper clothing to be provided, the species of provisions suited to Native habits, the number of women that should accompany the Emigrants, or other matters.

Probable length of voyage.

XII. The probable lengths of the voyages to the several French Colonies from the Ports aforesaid shall be deemed for the purposes of this Act to be as follows:—

From the Port of Calcutta to Re-Union—

Between the months of April and October inclusive, ten weeks.

Between the months of November and March inclusive, eight weeks.

From the Port of Madras—

Between the months of April and October inclusive, seven weeks.

Between the months of November and March inclusive, five weeks.

From the Port of Bombay—

Between the months of April and September inclusive, five weeks; and between the months of October and March inclusive, six weeks.

From the Port of Calcutta to Martinique, Gaudeloupe and its dependencies twenty weeks.

From the Port of Madras. nineteen weeks.

From the Port of Bombay, nineteen weeks.

From the Port of Calcutta to Guiana, twenty-six-weeks.

From the Port of Madras, nineteen weeks.

From the Port of Bombay, nineteen weeks.

Provided that the Governor-General of India in Coucil may, by order to be published in the Calcutta Gazette, extend this Act to any other French Colony not expressly named herein, at which a British Consular Agent is established and to which the application of the above recited Convention shall be extended, and in such order may declare the probable length of the voyage to such Colony. Such declaration shall have the same force and effect as if it formed part of this Section.

Time of sailing.

XIII. *Clause* 1.—Emigrants may leave India for the French Colonies to the East of the Cape of Good Hope at all times of the year.

Clause 2. For the other French Colonies they may leave only from the 1st of August to the 15th of March. This arrangement applies only to sailing vessels; vessels using steam power may leave at any time of the year.

Clause 3—Every Emigrant sailing from India for any French Colony Westward of the Cape of Good Hope between the 1st of March and the 15th of September shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropies.

Emigrant vessel to carry an European Surgeon and an Interpreter. Captain to take charge of Despatches from the Protector to the British Consular Agent.

XIV. Every Emigrant vessel must carry an European Surgeon and an interpreter. The Master of every Emigrant vessel shall be bound to take charge of any despatch which may be delivered to him by the Protector of Emigrants at the Port of embarkation, for the British Consular Agent at the Port of destination, and to deliver it to the Colonial Government immediately after his arrival.

Space to be set apart for Emigrants on board-ship.

XV. *Clause* 1.— In every vessel employed for the conveyance of Emigrants, the Emigrants shall occupy, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of five feet and a half.

Clause 2. No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal, and for every cubic space of sixty feet in the Presidencies of Bombay and Madras.

Clause 3. An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

Clause 4. A place shall be fitted up for a hospital in every Emigrant ship.

Clause 5. Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

Amount or proportion of provisions to be carried by Emi-

XVI. There shall be actually laden on board of every ship or vessel conveying Emigrants into any of the Colonies aforesaid at the time of departure of such ship or vessel from the Port at which such laborers shall be embarked,

grant vessel over and above the victualling of the crew.

good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount or in the proportion following : that is to say—a supply of water to the amount of five gallons for every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks ; and a supply of rice, bread biscuit, flour, oatmeal, or bread stuffs to the amount of seven pounds' weight to every week of the computed voyage for every such passenger. Provided always that, when any such ship or vessel shall be destined to call at a Port or place in the course of a voyage for the purpose of filling up her water casks, a supply of water at the rate before-mentioned for every week of an average voyage to such Port or place of calling shall be deemed to be a compliance with this Regulation ; and provided that the preceding Regulation regarding food shall be deemed to have been complied with in any case when it shall be made to appear that, by the special authority of the Governor-General of India in Council, any other articles of food were substituted for the articles above enumerated, as being in his judgment equivalent thereto. Provided also that when any such ship or vessel is fitted with Normandy's apparatus for distilling sea-water, a reduction shall be allowed of one-third in the quantity of water required to be provided as aforesaid.

Proviso.

Before Port-clearance Master of vessel to obtain a Survey Certificate.

XVII. Before any such ship or vessel shall be cleared out on any such voyage, the Protector of Emigrants at the Port or place from which such ship or vessel shall be cleared out, shall survey or cause to be surveyed by some competent person, the provisions and water hereinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are in good and sweet condition, and also that, over and above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed sea-worthy, and that the directions hereinbefore contained for ensuring the health and safety of the passengers have been complied with, and shall grant a certificate thereof, under his hand, to the Master of such ship or vessel.

Up to what time Master of vessel to to furnish Emigrants with provisions.

XVIII. The Master of every ship or vessel conveying Emigrants to any of the said Colonies shall be bound to provide for and furnish to every such Emigrant, and his wife and children, a sufficient quantity of good and wholesome provisions for his, her and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel at the place of destination.

Emigrant vessel to carry copies and translations of these Regulations.

XIX. Two copies of Section X to XX inclusive of this Act, and two copies of a translation thereof in such Native language as the Local Government may direct, authenticated by the signature of the protector of Emigrants at the Port or place at which such Emigrants shall embark, shall be delivered to the Master by such Protector at the time of clearance, and shall be kept on board of every ship or vessel carrying such Emigrants as aforesaid, during the whole voyage, and one of such copies or translations shall, upon request made at any reasonable time to the Master of the ship or vessel, be produced to any passenger for his perusal.

Master to deliver list to Emigration Agent.

XX. The Master of every ship or vessel carrying Emigrants from India to any of the Colonies aforesaid shall, before clearing out such ship or vessel, deliver to the protector of Emigrants at the Port or place from which such vessel is cleared out, a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and occupations, of all and every the Emigrants on board such ship or vessel, and such Protector shall thereupon deliver to the said Master the counterpart of such list signed by such Protector ; and the said Master shall, on the arrival of such ship or vessel at the place of destination, and previous to the disembarkation of any such Emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the British Consular Agent at the Colony at which the said ship or vessel may have arrived.

Penalty for non-compliance with particulars required before clearance.

XXI. If the Master of any ship or vessel shall, at any of the Ports aforesaid, take on board such ship or vessel any Emigrant laborer of the description aforesaid, and shall clear such ship or vessel for any of the said Colonies without having fully complied with every particular herein required previously to clearance, he shall be liable, on conviction before any Magistrate or justice of the peace, to a penalty not exceeding 200 Rupees for every Emigrant laborer so taken on board his ship or vessel.

Penalty for taking on board, after clearance, Emigrants not entered in list.

XXII If the Master of any ship or vessel shall, after having cleared such ship or vessel at any such Port as aforesaid for any of the said Colonies, take on board any such Emigrant laborer as aforesaid without having entered such Emigrant laborer in such list as aforesaid, or without having obtained such duplicate as aforesaid containing the entry of such Emigrant prior to clearance, he shall be

liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding 500 Rupees for every Emigrant so taken on board his ship or vessel.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

XXIII. If any Master of any ship or vessel cleared for any of the said Colonies as aforesaid shall, after having obtained such certificate as aforesaid, fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the ship or vessel, its passengers, or other matters to which such certificate relates, such Master shall be liable on conviction to a penalty not exceeding 5,000 Rupees, besides incurring a forfeiture of any Bond executed in consideration of any license obtained for the vessel as originally described.

Custom House Officers and Pilots to exercise, for the purposes of this Act, certain powers vested in the prevention of smuggling.

XXIV. All the powers vested by law in the Officers of Customs in regard to the searching and detention of ships or vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of illegal embarkation of such Emigrants as aforesaid on board ships or vessels bound for any of the said Colonies and of other offences against this Act; and all Pilots in the service of the Government of India shall be invested with the same powers and be charged with the same duties as Preventive Officers of Customs in this behalf.

Custom House Officer and Pilots at Calcutta to countersign papers.

XXV. Whenever a vessel shall clear from Calcutta for any of the said Colonies with Emigrant laborers duly embarked thereon, the Customs Officer on Board such vessel shall countersign the pass or certificate brought on board such vessel by every such Emigrant laborer and shall keep a register of every such Emigrant laborer as may come on board. And such Customs Officer shall remain on board such vessel until she shall arrive in Saugor Roads, and shall not come away until muster of the crew and passengers and Emigrant laborers has been made in his presence and in that of the Pilot in charge of the vessel; and after the Customs Officer has taken muster and quitted the vessel, the Pilot shall continue to exercise the duties indicated in the last preceding Section of this Act; and it shall be lawful for him, if he shall deem it necessary, to require the Master or Commander to take a general muster of the crew and passengers and Emigrant laborers on board, and to sign a muster roll so taken. And every such Custom House Officer and Pilot shall make a complete report of the Emigrant laborers on board of any ship at the time of his quitting the same; and such report shall contain a declaration that to the best of the declarant's belief no additional Emigrant laborers have been received on board since obtaining the certificate, and that nothing else has been done or omitted to be done in the ship or vessel contrary to the provisions of this Act; and every such report or muster (if any) shall be transmitted without delay to the Protector of Emigrants at the Port. And any Custom House Officer or Pilot who shall wilfully make a false, erroneous, or incomplete report of the Emigrant laborers on board of any ship or who shall connive at the unauthorized embarkation of any such Emigrant laborers, shall be liable, besides dismissal, to a fine of 5,000 Rupees commutable if not paid to imprisonment in the Civil Jail for six months, and the penalty shall be adjudged in like manner as similar penalties are adjudged for offences committed in respect to the Customs Revenue.

To muster crew and passengers and Emigrants.

Report of Emigrants on board.

Penalty.

Punishment for forgery of document required by this Act.

XXVI. If any person shall forge, or shall use knowing it to be forged, any document required by this Act, such person shall be liable to be imprisoned for any period not exceeding seven years.

Penalties how to be enforced.

XXVII. All the several penalties to which the Masters of ships or vessels are liable by this Act shall be enforced by information laid before any Magistrate or Justice of the Peace at the instance of the Protector of Emigrants, or of any Officer appointed for the purpose by the Government of the Presidency or place, or may be enforced by putting in suit the Bond given by the Master, if such Bond has been given in consideration of the license granted to the ship.

Levy of fines.

XXVIII. All fines and penalties imposed by a Magistrate or Justice of the Peace under the authority of this Act, if no other means for enforcing the payment of such fines and penalties are provided by this Act, may in case of non-payment thereof be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate or Justice. When a warrant of distress is issued, the Magistrate or Justice may order the offender to be detained and kept in safe custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if before issuing such warrant of distress it shall appear to the Magistrate or Justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate or Justice whereon to levy such fine or

penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued and upon the return thereof such insufficiency aforesaid shall be made to appear to the Magistrate or Justice, he shall, by warrant, commit the offender to jail, there to be imprisoned, according to the description of the Magistrate or Justice, for any term not exceeding two months where the amount of the fine shall not exceed 50 Rupees, and for any term not exceeding four months where the amount shall not exceed 100 Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Numerical proportion of women to men by each shipment.

XXIX. Each shipment of Emigrants under this Act shall include a proportion of women equal to at least one-fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third; after two years more it shall be raised to one-half; and after a further period of two years, the proportion shall be the same as has been or may be fixed for the British Colonies.

Protector to have right of access to every part of the ship.

XXX. The Protector of Emigrants shall have at all reasonable times the right of access to every part of every ship which is appropriated to the use of Emigrants under this Act.

Act when to take effect.

XXXI. This Act shall take effect as to the Emigration of Native laborers from India to the number of not more than six thousand to the Island of Re-Union, from the time of the passing thereof, and shall take effect generally as to Emigration to the said Island and to Martinique, Gaudeloupe and its dependencies, and Guiana, from the time when the Convention herein recited and set forth shall have been concluded and signed and shall take effect, and as to Emigration to any other French Colony, from such date as the Governor-General in Council in extending this Act to such Colony shall determine. From the time this Act shall so take effect, it shall continue in force so long as the said Convention shall continue in force and no longer. Provided that Act XIX of 1856 (*to enable the Governor General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native laborers*) shall have full force and effect in respect to the Emigration of Native laborers to any or all of the French Colonies under this Act.

ACT No. XLVII OF 1860.

(Received the assent of the Governor-General on the 6th October 1860.)

1. *Power of Universities to confer Degrees.*
2. *Construction.*

An Act for giving to the Universities of Calcutta, Madras, and Bombay the power of conferring Degrees in addition to those mentioned in Acts II, XXII, and XXVII of 1857.

WHEREAS it is expedient to give to the Universities of Calcutta, Madras, and Bombay, established under Acts II, XXII, XXVII of 1857, the power of conferring Degrees other than the Degress in that Act expressly provided for; It is enacted as follows:—

Power of Universities to confer Degrees.

I. It shall be competent to the Chancellor, Vice Chancellor, and Fellows of the Universities of Calcutta, Madras, or Bombay respectively to confer such Degrees and to grant such Diplomas or Licenses in respect of Degrees as the said Chancellor, Vice Chancellor, and Fellows of any such University shall have appointed or shall appoint by any Bye-laws or Regulations made and passed or to be made or passed by them in the manner provided in the said Acts, and submitted to and approved by the Governor General in Council as far as regards the University of Calcutta, or by the Governor in Council of Madras or Bombay as regards the Universities of Madras and Bombay respectively.

Construction.

II. All the provisions contained in the said Acts II, XXII, and XXVII, of 1857, with respect to the Degrees therein mentioned and to the examinations for those Degrees shall apply to any Degrees which may be conferred under this Act and to the examinations for such Degrees.

ACT No. L OF 1860.

(Received the assent of the Governor-General on the 26th December 1860.)

1. Laws repealed.
2. Sudder Courts to prepare and publish an annual list of Holidays to be observed.

An Act to amend the Law relating to Vacations in the Civil Courts within the Presidency of Fort William in Bengal.

WHEREAS it is expedient to amend the Law relating to Vacations observed in the Civil Courts within the Presidency of Fort William in Bengal; It is enacted as follows:—

I. *Repealed by Act XIV. of 1870.*

II. Subject to such orders as may from time to time be issued by the Governor-General of India in Council or by the Local Government, the Courts of Sudder Dewanny in the Presidency aforesaid shall prepare a list of days to be observed in each year as close Holidays in such Courts and in the Courts respectively subordinate to them, and such list shall be ordinarily published at the commencement of each year in the Official Gazette of the presidency or place in which each Sudder Court is held.

Sudder Courts to prepare and publish an annual list of Holidays to be observed.

ACT No. LII OF 1860.

(Received the assent of the Governor-General on the 26th December 1860.)

1. Police Magistrate may in certain cases try offences punishable under Sections XXVII and XXVIII Act XVIII of 1854 with imprisonment.
2. Extent of jurisdiction.
3. Construction.

An Act to amend Act XVIII of 1854 (*relating to Railways in India*).

WHEREAS it is expedient to amend the law relating to offences declared to be punishable under Act XVIII of 1854 (*relating to Railways in India*) on conviction before a Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay; It is enacted as follows:—

I. If any person is charged before a Police Magistrate of a Presidency Town with committing any offence which under Section XXVII or Section XXVIII of Act XVIII of 1854 is punishable on conviction with imprisonment, and if such Police Magistrate shall deem it probable that, in consequence of the probable departure of any material witness from the local limits of the jurisdiction of such Magistrate, the prosecution of such offender by indictment in the Supreme Court will be ineffectual, such Magistrate may try the offender, and on conviction may award a sentence not exceeding six month's imprisonment with or without hard labor.

Police Magistrate may in certain case try offences punishable under Sections XXVII and XXVIII Act XVIII of 1854 with imprisonment.

II. The jurisdiction given to Police Magistrates under the foregoing Section may be exercised whether the offence shall be charged to have been committed within the local limits of the jurisdiction of such Magistrates or not, and any persons hereby made punishable by a Police Magistrate shall be punishable upon summary conviction, but such jurisdiction shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within the local limits of the jurisdiction of the Police Magistrate before whom the offender is charged.

Extent of jurisdiction.

III. This Act shall be taken to be, and shall be read as part of Act XVIII of 1854.

Construction.

ACT No. V OF 1861. *

(Received the assent of the Governor-General on the 22nd March 1861.)

1. *Interpretation.*
2. *Constitution of the Force.*
3. *Superintendence of the Local Government.*
4. *Inspector General of Police, &c.*
5. *Inspector General to have powers of a Magistrate. To exercise them under the orders of Government.*
6. *Deputy Inspectors General &c. may be vested with powers of a Magistrate. In what cases those powers shall be exercised.*
7. *Inspector General &c. to appoint and dismiss.*
8. *Police Officers to receive certificates of Office.*
9. *Police Officers not to resign without leave or two months' notice.*
10. *Police Officers not to engage in other employment.*
11. *Police Superannuation Fund. Proviso.*
12. *Inspector General to make Rules.*
13. *Additional Police Officers employed at the cost of individuals.*
14. *Appointment of additional Force in the neighbourhood of Railway and other works.*
15. *Quartering of additional Police in disturbed or dangerous Districts.*
16. *Payment of money for support of additional Police Force.*
17. *Special Police Officers.*
18. *Powers of Special Police Officers.*
19. *Refusal to serve as Special Police Officers.*
20. *Authority to be exercised by Police Officers.*
21. *Village Police Officers.*
22. *Police officers to be considered always on duty and may be employed in any part of the General Police District.*
23. *Duties of Police Officers.*
24. *Police Officers may lay informations, &c.*
25. *Police Officers to take charge of unclaimed property, and to be subject to Magistrate's orders as to the disposal of it.*
26. *Magistrate may detain property and issue proclamation.*
27. *Confiscation of property if no claimant appear.*
28. *Persons refusing to deliver up certificate &c. on ceasing to be Police Officers.*
29. *Penalties for neglect of duty, &c.*
30. *Regulation of public procession, &c.*
31. *Police to keep order in public roads, &c.*
32. *Penalty for disobeying orders issued under last two Sections, &c.*
33. *Control of the Magistrate of the District under last three Sections.*
34. *Certain duties of Police Officers. Obstructions and nuisances in roads.*
35. *Jurisdiction. Proviso.*
36. *Power to prosecute not affected. Proviso.*
37. *Levy of forfeiture and penalties by distress.*
38. *Procedure until return is made to warrant of distress.*
39. *Imprisonment if distress not sufficient.*
40. *Levy of fines from European British Subjects.*
41. *Rewards to Police and informers payable to General Police Fund.*
42. *Limitation of action. Tender of amends. Proviso.*
43. *Plea that act was done under a warrant. Proviso.*
44. *Police Officers to keep a Diary.*
45. *Local Government empowered to prescribe the form of Returns.*
46. *Scope of Act.*
47. *Authority of District Superintendent of Police over Village Police.*

An Act for the Regulation of Police.

WHEREAS it is expedient to re-organize the Police and to make it a more efficient instrument for the prevention and detection of crime; It is enacted as follows :—

* In the provinces under the control of the Lieutenant Governor of Bengal Act VII. 1869 B. C. is to be read with and as part of this Act.

I. The following words and expressions in this Act shall have the meaning assigned to them, unless there be something in the subject or context repugnant to such construction, that is it say :— Interpretation.

The words "Magistrate of the District" shall mean the Chief Officer charged with the executive administration of a District and exercising the powers of a Magistrate, by whatever designation the Chief Officer charged with such executive administration is styled.

The word "Magistrate" shall include all persons within the General Police District, exercising all or any of the powers of a Magistrate.

The word "Police" shall include all persons who shall be enrolled under this Act.

The words "General Police District" shall embrace any Presidency, Province, or place, or any part of any Presidency, Province, or place in which this Act shall be ordered to take effect.

The word "Property" shall include any moveable property, money, or valuable security.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The word "person" shall include a Company or Corporation.

The word "month" shall mean a calendar month.

The word "cattle" shall besides horned cattle, include Elephants, Camels, Horses, Asses, Mules, Ship, Goats, and Swine.

II. Repealed, as regards the Provinces under the Control of the Lieutenant Governor of Bengal by Act VII. 1869 B. C.

III. The superintendence of the Police throughout a General Police District shall vest in, and, subject to the general control of the Governor-General of India in Council, shall be exercised by the Local Government to which such District is subordinate; and except as authorized under the provisions of this Act, no person, Officer, or Court shall be empowered by the Local Government to appoint, supersede, or control any Police functionary. Superintendence of the Local Government.

IV. The administration of the Police throughout a General Police District shall be vested in the Officer to be styled the Inspector General of Police, and in such Deputy Inspectors General, and Assistant Inspectors General, as to the Local Government shall seem fit. The administration of the Police throughout the local jurisdiction of the Magistrate of the District shall, under the general control and direction of such Magistrate, be vested in a District Superintendent and such Assistant District Superintendents as the Local Government shall consider necessary. The Inspector General and other Officers above-mentioned shall from time to time be appointed by the Local Goverment, and may be removed by the same authority. Inspector General of Police, &c.

V. The Inspector General of Police shall have the full powers of a Magistrate throughout the General Police District; but shall exercise those powers subject to such limitation as may from time to time be imposed by the Local Government. Inspector General to have powers of a Magistrate. To exercise them under the orders of Government.

VI. The Local Government may vest any Deputy Inspector General, Assistant Inspector General, District Superintendent, or Assistant District Superintendent of Police with all or any of the powers of a Magistrate within such limits as it may deem proper; but such officers respectively shall exercise the powers with which they shall be so invested only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension, and detention of offenders in order to their being brought before a magistrate, and, so far as may be necessary, for the performance of the duties assigned to them by this Act. Deputy Inspectors General &c. may be vested with powers of a Magistrate. In what cases those powers shall be exercised.

VII. The appointment of all Police Officers other than those mentioned in Section IV of this Act shall, under such rules as the Local Government shall from time to time sanction, rest with the Inspector General, Deputy Inspectors General, Assistant Inspectors General, and Districts Superintendents of Police, who may, under such rules as aforesaid, at any time dismiss, suspend, or reduce any Police Officer whom they shall think remiss or negligent in the discharge of his duty, or unfit for the same, or fine any Police Officer to any amount not exceeding one month's pay who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof. Inspector General &c. to appoint and dismiss.

VIII. Every Police Officer, so appointed, shall receive on his appointment a certificate in the form annexed to this Act, under the seal of the Inspector General or such other Officer as the Inspector General shall appoint, by virtue of which the person holding such certificate shall be vested with the powers, functions and Police Officers to receive certificates of Office.

privileges of a Police Officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed or otherwise removed from employment in the Police force, and shall be immediately surrendered to the Superior Officer of such person or to some other Officer empowered to receive the same.

Police Officers not to resign without leave or two months' notice.

IX. No Police Officer shall be at liberty to withdraw himself from the duties of his office unless expressly allowed to do so by the District Superindendent or by some other Officer authorized to grant such permission, or, without the leave of the District Superindent, to resign his Office unless he shall have given to his Superior Officer notice in writing, for a period of not less than two months, of his intention to resign.

Police Officers not to engage in other employment.

X. No Police Officer shall engage in any employment or Office whatever other than his duties under this Act, unless expressly permitted to do so in writing by the Inspector General.

XI. Repealed by Act X. 1869.

Inspector General to make Rules.

XII. The Inspector General of Police may, from time to time, subject to the approval of the Local Government, frame such orders and rules as he shall deem expedient, relative to the organization, classification, and distribution of the Police Force, the places at which the Members of the Force shall reside, and the particular services to be performed by them; their inspection, the description of arms, accoutrements, and other necessaries to be furnished to them: the collecting and communicating by them of intelligence and information; and all such other orders and rules relative to the Police Force as the Inspector General shall, from time to time, deem expedient for preventing abuse or neglect of duty, and for rendering such Force efficient in the discharge of its duties.

Additional Police Officers employed at the cost of individuals.

XIII. It shall be lawful for the Inspecter General of Police, or any Deputy Inspector General, or Assistant Inspector General, or for the District Superintendent, subject to the general direction of the Magistrate of the District, on the application of any person showing the necessity thereof, to depute any additional number of Police Officers to keep the peace at any place within the General Police District, and for such time as shall be deemed proper. Such Force shall be exclusively under the orders of the District Superintendent, and shall be at the charge of the person making the application. Provided that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector General, Deputy Inspector General, or Assistant Inspector General or to the District Superintendent to require that the Police Officers so deputed shall be withdrawn; and such person shall be relieved from the charge of such additional Force from the expiration of such notice.

Appointment of additional Force in the neighbourhood of Railway and other works.

XIV. Whenever any Railway, Canal, or other public work, or any manufactory or commercial concern, shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector General that the employment of an additional Police Force in such place is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, manufactory, or concern, it shall be lawful for the Inspector General, with the consent of the Local Government, to depute such additional Force to such place, and to employ the same so long as such necessity shall continue, and to make orders from time to time upon the person having the control or custody of the Funds used in carrying on such work, manufactory, or concern, for the payment of the extra Force so rendered necessary, and such person shall thereupon cause payment to be made accordingly.

Quartering of additional Police in disturbed or dangerous Districts.

XV. It shall be lawful for the Inspector General of police, with the sanction of the Local Government, to be notified by proclamation in the *Government Gazette*, and in such other manner as the Local Government shall direct, to employ any Police Force in excess of the ordinary fixed complement to be quartered in any part of the General Police District which shall be found to be in a disturbed or dangerous state, or in any part of the General Police District in which, from the conduct of the inhabitants, he may deem it expedient to increase the number of of Police. The inhabitants of the part of the country described in the notification shall be charged with the cost of such additional Police Force, and the Magistrate of the District, after enquiry if necessary, shall assess the proportion in which the amount is to be paid by the inhabitants according to his judgment of their respective means.

Payment of money for support of additional Police Force.

XVI. All monies payable under the last three preceding Sections, on account of any additional Police Force employed as therein directed, shall be recoverable under the warrant of a Magistrate, by distress and sale of the goods of the defaulter within the District of such Magistrate, or by suit in any competent Court; and the monies paid on this account or so recovered shall be credited to a Fund to be called "The General Police Fund," and shall be applied to the maintenance of the Police force under such orders as the Local Government shall pass.

XVII. When it shall appear that any unlawful assembly or riot or disturbance of the peace has taken place, or may be reasonably apprehended, and that the Police Force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the inhabitants and the security of property in the place where such unlawful assembly or riot, or disturbance of the peace has occurred, or is apprehended, it shall be lawful for any Police Officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the residents of the neighbourhood as such Police Officer, may require to act as special Police Officers for such time and within such limits as he shall deem necessary; and the Magistrate to whom such application is made shall, unless he see cause to the contrary, comply with the application.

Special Police Officers.

XVIII. Every Special Police Officer so appointed shall have the same powers, privileges, and protection and shall be liable to perform the same duties and shall be amenable to the same penalties, and be subordinate to the same authorities as the ordinary Officers of Police.

Powers of Special Police Officers.

XIX. If any person being appointed a Special Police Officer as aforesaid shall, without sufficient excuse, neglect or refuse to serve as such, or to obey such lawful order or direction as may be given to him for the performance of his duties, he shall be liable, upon conviction before a Magistrate to a fine not exceeding fifty Rupees for every such neglect, refusal, or disobedience.

Refusal to serve as Special Police Officers.

XX. Police officers, enrolled under this Act, shall not exercise any authority, except the authority provided for a Police Officer under this Act and any Act which shall hereafter be passed for regulating Criminal Procedure.

Authority to be exercised by Police Officers.

XXI. Nothing in this Act shall effect any Hereditary or other Village Police Officer, unless such Officer shall be enrolled as a Police Officer under this Act. When so enrolled such Officer shall be bound by the provisions of the last preceding Section. No Hereditary or other Village Police Officer shall be enrolled without his consent and the consent of those who have the right of nomination. If any Police Officer appointed under Act XX of 1856 *(to make better provision for the appointment and maintenance of Police Chowkeedars in Cities, Towns, Stations, Suburbs, and Bazars in the presidency of Fort William in Bengal)* is employed out of the District for which he shall have been appointed under that Act, he shall not be paid out of the rates levied under the said Act for that District.

Village Police Officers.

XXII. Every Police Officer shall, for all purposes in this Act contained, be considered to be always on duty, and may at any time be employed as a Police Officer in any part of the General Police District.

Police Officers to be considered always on duty and may be employed in any part of the General Police District.

XXIII. It shall be the duty of every Police Officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority; to collect and communicate intelligence affecting the public peace; to prevent the commission of offences and public nuisances; to detect and bring offenders to justice; and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists: and it shall be lawful for every Police Officer, for any of the purposes mentioned in this Section, without a warrant, to enter and inspect any drinking shop, gaming house, or other place of resort of loose and disorderly characters.

Duties of Police Officers.

XXIV. It shall be lawful for any Police Officer to lay any information before a Magistrate, and to apply for a summons, warrant, search warrant, or such other legal process as may by law issue against any person committing an offence, and to prosecute such person up to final judgment.

Police Officer may lay informations, &c.

XXV. It shall be the duty of every Police Officer to take charge of all unclaimed property, and to furnish an inventory thereof to the Magistrate of the District. The Police Officers shall be guided as to the disposal of such property by such orders as they shall receive from the Magistrate of the District.

Police Officers to take charge of unclaimed property, and to be subject to Magistrate's orders as to the disposal of it.

XXVI. The Magistrate of the District may detain the property and issue a proclamation, specifying the articles of which it consists, and requiring any person who has any claim thereto to appear and establish his right to the same within six months from the date of such proclamation.

Magistrate may detain property and issue proclamation.

XXVII. If no person shall within the period allowed claim such property, it may be sold under the orders of the Magistrate of the District and the proceeds shall be at the disposal of Government.

Confiscation of property if no claimant appear.

XXVIII. Every person, having ceased to be an enrolled Police Officer under this Act, who shall not forthwith deliver up his certificate, and the clothing, accoutrements, appointment, and other necessaries which shall have been supplied to him for the execution of his duty, shall be liable, on conviction before a Magis-

Persons refusing to deliver up to certificate &c., on ceasing to be Police Officers.

trate, to a penalty not exceeding Two Hundred Rupees, or to imprisonment, with or without hard labor, for a period not exceeding six months, or to both.

Penalties for neglect of duty, &c.

XXIX. Every Police Officer who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent Authority; or who shall withdraw from the duties of his Office without permission, or without having given previous notice for the period of two months; or who shall engage without authority in any employment other than his Police duty; or who shall be guilty of cowardice, or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable, on conviction before a Magistrate, to a penalty not exceeding three months' pay, or to imprisonment, with or without hard labor, for a period not exceeding three months, or to both.

Regulation of public procession, &c.

XXX. The district Superintendent and Assistant District Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads, or in the public streets, or thoroughfares, and prescribe the routes by which, and the times at which, such processions may pass. They may also regulate the use of music in the streets on the occasion of festivals and ceremonies.

Police to keep order in public roads, &c.

XXXI. It shall be the duty of the Police to keep order on the public roads, and in the public streets, thoroughfares, ghauts, and landing places, and at all other places of public resort, and to prevent obstruction on the occasions of assemblies and processions on the public roads and in the public streets or in the neighbourhood of places of worship during the time of public worship, and in any case when any road, street, thoroughfare, ghaut, or landing place may be thronged or may be liable to be obstructed.

Penalty for disobeying orders issued under last two Sections, &c.

XXXII. Every person opposing, or not obeying the orders issued under the last two preceding Sections, or violating the conditions of any licences granted by the District Superintendent or Assistant District Superintendent of Police for the use of music; or for the conduct of assemblies and processions, shall be liable, on conviction before a Magistrate, to a fine not exceeding Two Hundred Rupees.

Control of the Magistrate of the District under last three Sections.

XXXIII. Nothing in the last three preceding Sections, shall be deemed to interfere with the general control of the Magistrate referred to therein.

Certain duties of Police Officers.

Obstructions and nuisances in roads.

XXXIV. Any person who, on any road or in any street or thoroughfare within the limits of any Town to which this Section shall be specially extended by the Local Government, commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, danger, or damage of the residents and passengers, shall, on conviction before a Magistrate, be liable to a fine not exceeding Fifty Rupees, or to imprisonment not exceeding either; and it shall be lawful for any Police-Officer to take into custody, without a warrant, any person who within his view commits any of such offences, namely:—

First.—Any person who slaughters any cattle or cleans any carcass; any person who rides or drives any cattle recklessly or furiously, or trains or breaks any horse or other cattle.

Second.—Any person who wantonly or cruelly beats, abuses, or tortures any animal.

Third. Any person who keeps any cattle or conveyance of any kind standing longer than is required for loading or unloading or for taking up or setting down passengers, or who leaves any conveyance in such a manner as to cause inconvenience or danger to the public.

Fourth. Any person who exposes any goods for sale.

Fifth. Any person who throws or lays down any dirt, filth, rubbish, or any stones or building materials; or who constructs any cowshed, stable, or the like, or who causes any offensive matter to run from any house, factory, dung heap, or the like.

Sixth. Any person who is found drunk or riotous, or who is incapable of taking care of himself.

Seventh. Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself, or by bathing or washing in any tank or reservoir not being a place set apart for that purpose.

Eighth. Any person who neglects to fence in, or duly to protect any well, tank, or other dangerous place or structure.

Jurisdiction.

Proviso.

XXXV. In all cases of convictions under this Act the Officer trying the case shall be limited to his ordinary jurisdiction as to the amount of fine or imprisonment which he may inflict; provided that any charge against a Police Officer above the rank of a Constable under this Act shall be enquired into and determined only by an Officer exercising the powers of a Magistrate.

XXXVI. Nothing contained in this Act shall be construed to prevent any person from being prosecuted under any other Regulation or Act for any offence made punishable by this Act, or from being liable under any other Regulation or Act to any other or higher penalty or punishment than is provided for such offence by this Act. Provided that no person shall be punished twice for the same offence.

Power to prosecute not affected.

Proviso.

XXXVII. All forfeitures or penalties imposed under the authority of this Act for offences punishable by a Magistrate may, in case of non-payment thereof, be levied by distress and sale of the offender within the limits of the jurisdiction of the Magistrate of the District, by warrant under the hand of the Magistrate who made the order.

Levy of forfeiture and penalties by distress.

XXXVIII. In case any such forfeiture or penalty shall not be forthwith paid, the Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of the Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Procedure until return is made to warrant of distress.

XXXIX. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of the Magistrate by the confession of the offender or otherwise, that he has not sufficient property whereupon such fine or sum of money could be levied if a warrant of distress were issued, the Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of the Magistrate, for any term not exceeding two calendar months when the amount of fine shall not exceed Fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if distress not sufficient.

XL. If the offender be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offenderi s convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Levy of fines from European British subject.

XLI. All sums paid for the service of process by Police Officers, and all rewards, forfeitures, and penalties, or shares of rewards, forfeitures and penalties which by law are payable to informers, shall, when the information is laid by a Police Officer, be paid into the General Police Fund.

Rewards to Police and informers payable to General Police Fund.

XLII. All actions and prosecutions against any person, which may be lawfully brought for any thing done or intended to be done under the provisions of this Act, or under the general Police powers hereby given, shall be commenced within three months after the act complained of shall have been committed and not otherwise; and notice in writing of such action and of the cause thereof shall be given to the defendant, or to the District Superintendent or an Assistant District Superintendent of the District in which the act was committed, one month at least before the commencement of the action. No plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant, and though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is held, shall certify his approbation of the action. Provided always that no action shall in any case lie where such Officers shall have been prosecuted criminally for the same act.

Limitation of action.

Tender of amends.

Proviso.

XLIII. When any action or prosecution shall be brought or any proceedings held against any Police Officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate. Such plea shall be proved by the production of the warrant directing the act, and purporting to be signed by such Magistrate, and the defendant shall thereupon be entitled to a decree in his favour, notwithstanding any defect of jurisdiction in such Magistrate. No proof of the signature of such Magistrate shall be necessary, unless the Court shall see reason to doubt its being genuine. Provided always that any remedy which the party may have against the authority issuing such warrant shall not be affected by any thing contained in this Section.

Plea that act was done under a warrant.

Proviso.

XLIV. It shall be the duty of every Officer in charge of a Police Station to keep a General Diary in such form as shall, from time to time, be prescribed by the Local Government, and to record therein all complaints and charges preferred, the names of all persons arrested, the names of the complainants, the offences charged against them, the weapons or property that shall have been

Police Officers to keep a Diary.

taken from their possession or otherwise, and the names of the witnesses who shall have been examined. The Magistrate of the District shall be at liberty to call for and inspect such Diary.

Local Government empowered to prescribe the form of Returns.

XLV. The Local Government may direct the submission of such Returns by the Inspector General and the other Police Officers as to such Local Governments shall seem proper, and may prescribe the form in which such Returns shall be made.

Scope of Act.

XLVI. This Act shall not take effect in any Presidency Province, or place, unless the same shall be extended to such Presidency, Province or place by the Governor-General of India in Council by an order to be published in the *Government Gazette*. When the Act shall have been so extended it shall be carried into effect in such Presidency, Province, or place as the Local Government, by an order to be published in the *Official Gazette*, shall direct.

Authority of District Superintendent of Police over Village Police.

XLVII. It shall be lawful for the Local Government, in carrying this Act into effect in any part of the territories subject to such Local Government, to declare that any authority which now is or may be exercised by the Magistrate of the District over any Village Watchman or other Village Police Officer for the purposes of Police, shall be exercised, subject to the general control of the Magistrate of the District, by the District Superintendent of Police.

FORM (*See Section VIII.*)

A. B. has been appointed a Member of the Police Force under Act V. of 1861 and is vested with the powers, functions and privileges of a Police Officer.

ACT No. VI. OF 1861.

(Received the assent of the Governor-General on the 9th April 1861.)

1. *Penal Code to take effect on 1st January 1862.*
2. *Construction.*

An Act to alter the time from which the Indian Penal Code shall take effect.

Penal Code to take effect on 1st January 1862.

I. Act XLV of 1860, called the Indian Penal Code, shall not take effect until the first day of January 1862, and shall take effect on and from that day.

Construction.

II. Every part of the said Act, in which the first day of May 1861 is mentioned, shall be read and construed as if the first day of January 1862 had been mentioned therein, instead of the first day of May 1861.

ACT No. IX OF 1861.

(Received the assent of the Governor-General on the 24th April 1861.)

1. *Application.*
2. *Production, and temporary custody and protection, of minor.*
3. *Court, after hearing statements of the parties, &c., to make order regarding custody or guardianship of minor.*
4. *Procedure.*
5. *Appeal.*
6. *Orders passed under this Act not liable to be contested in a regular suit.*
7. *Saving of laws.*
8. *Interpretation.*

An Act to amend the law relating to Minors.

WHEREAS it is expedient to amend the Law for hearing suits relative to the custody and guardianship of minors; It is enacted as follows —

Application.

I. Any relative or friend of a minor who may desire to prefer any claim in respect of the custody or guardianship of such minor an make an application

by petition either in person or by a duly constituted agent, to the principal Civil Court of original jurisdiction in the district by which such application, if preferred in the form of a regular suit, would be cognizable, and shall set forth the grounds of his application in the petition. The Court, if satisfied by an examination of the Petitioner or his agent, if he appear by agent, that there is ground for proceeding shall give notice of the application to the person named in the petition as having the custody or being in the possession of the person of such minor, as well as to any other person to whom the Court may think it proper that such notice should be given, and shall fix as early a day as may be convenient for the hearing of the petition and the determination of the right to the custody or guardianship of such minor.

Production and temporary custody and protection, of minor.

II. The Court may direct that the person having the custody or being in possession of the person of such minor shall produce him or her in Court or in any other place appointed by the Court on the day fixed for the hearing of the petition or at any other time, and may make such order for the temporary custody and protection of such minor as may appear proper.

Court after hearing statements of the parties, &c., to make order regarding custody or guardianship of minor.

III. On the day appointed for the hearing of the petition, or as soon after as may be practicable, the Court shall hear the statements of the parties or their agents if they appear by agents, and such evidence as they or their agents may adduce, and thereupon shall proceed to make such order as it shall think fit in respect to the custody or guardianship of such minor and the costs of the case.

Procedure.

IV. In cases instituted under this Act, the Court shall be guided by the procedure prescribed in Act VIII of 1859 (*for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*) in so far as the same shall be applicable and material; and any order made by the Court may be enforced as if such order had been made in a regular suit.

Appeal.

V. An appeal shall lie to the Sudder Court from any order made by a lower Court under this Act, under the rules applicable to regular appeals to such Sudder Court, except that the petition of appeal may be written on a stamp paper of the value prescribed for petitions to the Sudder Courts.

Orders passed under this Act not liable to be contested in a regular suit.

VI. Any order passed under this Act in respect to the custody or guardianship of a minor, shall not be liable to be contested in a regular suit.

Saving of laws.

VII. Nothing in this Act shall be taken to interfere with the jurisdiction exercised under the Laws in force by any Supreme Court of Judicature or the Courts of Wards : or under Act XXI of 1855 (*for making better provision for the education of male minors and the marriage of male and female minors, subject to the superintendence of the Court of Wards in the Presidency of Fort Saint George*), Act XL of 1858 (*for making better provision for the care of the persons and property of minors in the presidency of Fort William in Bengal.*)

Interpretation.

VIII. The term "Sudder Court" in this Act shall denote the Highest Court of Appeal in any part of the British territories in India.

ACT No. XI OF 1861.

(Received the assent of the Governor-General on the 1st May 1861.)

1. Suits now pending or instituted before 1st January 1862 to be tried as if Act XIV of 1859 had not been passed.

2. Sections XIX, XX, XXI, XXII, and XXIII, not to take effect till 1st January 1862.

An Act to amend Act XIV of 1859 (*to provide for the limitation of suits.*)

I. ALL suits now pending, or which shall be instituted before the 1st day of January 1862, shall be tried and determined as if Act XIV of 1859 (*to provide for the limitation of suits*) had not been passed.

II. Sections XIX, XX, XXI, XXII, and XXIII, of the said Act, shall not take effect or have any operation before the said 1st day of January 1862.

ACT No. XIV OF 1861.

(Received the assent of the Governor-General on the 27th May 1861.

1. Certain tracts removed from the Jurisdiction and procedure of the ordinary tribunals. Proviso.
2. Administration of justice and collection of Revenue vested in Officers subject to the control of the Lieutenant-Governor of the North-Western Provinces.
3. Appeals.
4. Reference to the Sudder Court.
5. Place of imprisonment or transportation.
6. Questions of disputed boundary to be determined by Commissioner of Rohilcund.
7. Commencement of Act.

An Act to remove certain tracts of Country in the Rohilcund Divison from the Jurisdiction of the tribunals established under the general Regulations and Acts.

WHEREAS it is expedient to remove certain tracts of country in the Rohilcund Division from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts and Offices of that Division, under the General Regulations and Acts of the Government; It is enacted as follows:—

Certain tracts removed from the jurisdiction and procedure of the ordinary tribunals.

I. The tracts of country described in the Schedule to this Act, and such parts of the Pergunnahs Juspoor and Kasheepoor in the District of Mooradabad as shall be declared and defined by the Lieutenant- Governor of the North-Western Provinces, by an order to be published in the manner prescribed by Section VII of this Act on or before the date fixed by the said Lieutenant-Governor under the said Section VII for this Act to take effect, are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the Offices of Revenue constituted by the Regulations of the Bengal Code and by the Acts passed by the Governor-General of India in Council and the Legislative Council of India, as well as from the system of procedure prescribed for the said Courts and Offices by the Regulations and Acts aforesaid, and no Act hereafter passed by the Legislative Council of India relative to the constitution or procedure of the said Courts and Offices shall be deemed to extend to any part of the said tracts, unless the same may be specially named therein: provided that nothing herein contained shall extend to or affect any case now pending in any Court or Office.

Proviso.

II. The repeal of this Section is contingent on the passing of Bill No. 10 of 1870.

III. The repeal of this Section is contingent on the passing of Bill No. 10 of 1870.

Reference to the Sudder Court.

IV. It shall be lawful to the Lieutenant-Governor of the North-Western Provinces to direct any Officer empowered to administer Criminal jurisdiction in or for the tracts aforesaid, to refer the sentence passed by him in any class of Criminal trials for the confirmation of the Sudder Court; and no sentence of death passed by any person competent under the direction of the Lieutenant-Governor to pass such sentence, shall be carried into execution until it be confirmed by the Sudder Court. In disposing of any trial referred for disposal under this Section, the Sudder Court * * * * shall pass such order as it may deem just and proper, so as that it shall not convict any person acquitted by the referring Officer, or enhance any sentence pronounced by him.*

Place of imprisonment or transportation.

V. Any person liable to be imprisoned in any Civil or Criminal Jail or to be transported beyond sea under any order or sentence passed by any Officer or Court empowered as provided in this Act, may be imprisoned in any Civil or Criminal Jail or transported to any place which the Lieutenant-Governor of the North-Western Provinces may direct.

VI. The repeal of this Section is contingent on the passing of Bill No. 10 of 1870.

VII. The repeal of this Section is contingent on the passing of Bill No 10 of 1870.

SCHEDULE.

The tracts referred to in the foregoing Act are as follows:—
The Pergunnah of Bazpoor in the District of Mooradabad:

* The words omitted from this Section have been repealed by Act XIV of 1870.

The Pergunnahs of Roodurpoor and Guddurpoor in the District of Bareilly :
The Pergunnahs of Kilpooree, Nanuk-Muttha, and Bilhéree in the District of Peeleebheet.

ACT No. XVI OF 1861.

(Received the assent of the Governor-General on the 7th July 1861.)

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1. *Definition of Stage Carriage.*
2. *Grant of licenses.*
3. *Refusal of license. Particulars of license.*
4. *Charge for and duration of license.*
5. *Number of license, &c. to be painted on conspicuous part of carriage.*
6. *Penalty for letting carriage for hire without having the number, &c. painted on it.*
7. *Penalty for letting for hire unlicensed carriage.*
8. *Penalty for carriage drawn by less number of animals or carrying a greater number of passengers, &c. than is provided by the license.*
9. *Penalty for ill-treating animals.*
10. *Revocation of license.*
11. *Penalty for not conforming to provisions of Section V.*
12. *Penalty for misconduct on part of drivers.*
13. *Penalty in certain case recoverable from proprietor. Proviso.*
14. *Issue of summons.*
15. *Adjudication of penalties.*
16. *Recovery of penalties. &c.*
17. *Offender may be apprehended and detained in custody until return of warrant of distress.*
18. *Imprisonment of offender if distress not sufficient.*
19. *Recovery of penalty and costs from European British subjects.*
20. *Jurisdiction.*
21. *Interpretation. "Magistrate." "British India." "Horse." Number. Gender.*
22. *Act when to begin.*

An Act for licensing and regulating Stage Carriages..

WHEREAS it is expedient to license and to regulate Stage Carriages in British India ; It is enacted as follows :—

Definition of Stage Carriage.

I. Every carriage drawn by one or more horses which shall ordinarily be used for the purpose of conveying passengers for hire to or from any place in British India, shall without regard to the form or construction of such carriage be deemed to be a Stage Carriage within the meaning of this Act. Provided, that this Act shall not apply to carriages not ordinarily used for journies of a greater distance than twenty miles.

Grant of license.

II. No carriage shall be used as a State Carriage unless licensed by a Magistrate or by the Chief Commissioner of Police of a Presidency Town.

Particulars of license.

III. The Magistrate or Chief Commissioner of Police to whom the application for a license of a Stage Carriage is made, may refuse to license the same, if he shall be of opinion that such Stage Carriage is unserviceable or is unsafe or unfit for public accommodation or use. If a Magistrate or Chief Commissioner of police as aforesaid shall grant a license, the license shall set forth the number thereof, the name and residence of the proprietor of the Stage Carriage, the place at which his head office is held, the largest number of passengers and the greatest weight of luggage to be carried in or on such carriage, the number of horses by which such carriage is to be drawn, and the name of the place at which such carriage is licensed.

Charge for and duration of license.

IV. For every such license there shall be paid by the proprietor of the Stage Carriage the sum of 5 Rupees, and such license shall be in force for one year from the date thereof. When a licensed Stage Carriage is transferred to a new proprietor within the year, the name of such new proprietor shall, on application to that effect, be substituted in the license for the name of the former proprietor without any further payment for that year, and every person who appears by the license to be the proprietor, shall be deemed to be such proprietor for all the purposes of this Act.

Number of license, &c., to be painted on conspicuous part of carriage.

V. On any Stage Carriage being licensed, the proprietor thereof shall cause the number of the license and all the other particulars of the license to be distinctly painted in the English language and character upon a conspicuous part of such Stage Carriage.

Penalty for letting carriage for hire without having the number, &c., printed on it.

VI. The proprietor of any licensed Stage Carriage who shall let such Stage Carriage for hire without the particulars specified in Section III being painted on such carriage in the manner directed in the last preceding Section, shall be liable to a fine not exceeding 100 Rupees.

Penalty for letting for hire unlicensed carriage.

VII. Whoever lets for hire any Stage Carriage without the same being licensed as provided by this Act, shall be liable, on a first conviction, to a fine not exceeding 100 Rupees, and on any subsequent conviction to a fine which may extend to 500 Rupees.

Penalty for carriage drawn by less number of animals or carrying a greater number of passenger, &c., than is provided by the license.

VIII. Any proprietor, agent of a proprietor, or any driver of a licensed Stage Carriage, who knowingly permits such carriage to be drawn by a less number of horses, or who knowingly permits a larger number of passengers or a greater weight of luggage to be carried by such Stage Carriage than shall be provided by the license, shall be liable on a first conviction to a fine not exceeding 100 Rupees, and on any subsequent conviction to a fine which may extend to 500 Rupees. In every case where such Stage Carriage shall be proved to have been drawn by a less number of horses, or to have carried a large number of passengers or a greater weight of luggage than shall be provided by the license, the proprietor of such carriage shall be held to have knowingly permitted such offence; unless he shall prove that the offence was not committed with his connivance, and that he had taken every reasonable precaution and had made reasonable provision to prevent the commission of the offence.

Penalty for illtreating animals.

IX. Any person who shall cruelly beat, ill-treat, over-drive, abuse, torture, or cause or procure to be cruelly beaten, ill-treated, over-driven, abused, or tortured, any horse employed in drawing or harnessed to any Stage Carriage, or who shall harness to or drive in any Stage Carriage any horse which from sickness, age, wounds, or other cause is unfit to be driven in such Stage Carriage, shall for every such offence be liable to a fine not exceeding 100 Rupees.

Revocation of license.

X. Any Magistrate or Chief Commissioner of Police within the local limits of whose jurisdiction any Stage Carriage shall ply, or who has granted the license of any Stage Carriage, may cancel the license of such Stage Carriage, if it shall appear to him that such Stage Carriage or any horse or any harness used with such carriage is unserviceable or unsafe or otherwise unfit for public accommodation or use.

Penalty for not conforming to provisions of Section V.

XI. In any Station or place in which a Magistrate shall reside and be, any Police Officer may, in any place within two miles of the Office of such Magistrate, seize any Stage Carriage with the horse harnessed thereto, if the full particulars of the license of such Stage Carriage be not distinctly painted on such Stage Carriage in the manner provided in Section V of this Act Such carriage with the horse harnessed thereto shall be taken without delay by such Police Officer before such Magistrate, who shall forthwith proceed to hear and determine the complaint of such Police Officer; and if thereupon any fine is imposed by such Magistrate and such fine is paid, such Stage Carriage and horse shall be immediately released; and if such fine be not paid, such Stage Carriage and horse may be detained for twenty days as security for the payment thereof; and if the fine be not sooner paid, they may be sold and the proceeds applied (so far as they extend) to the payment of the said fine, and all costs and charges incurred on account of the detention and sale; and the surplus (if any), when claimed, shall be paid to the proprietor of such carriage and horse; and if such surplus be not claimed within a further period of two months from such sale, the same shall be forfeited to the State. If the proceeds of such sale do not fully pay the fine and costs and charges aforesaid, the balance may be recovered as hereinafter provided.

Penalty for misconduct on part of drivers.

XII. If any driver of any Stage Carriage, or any other person having the care thereof, shall through intoxication, neglect, or by wanton or furious driving, or by any other misconduct, endanger the safety of any passenger or other person, or shall injure or endanger the property of the proprietor of such Stage Carriage or of any other person, every such person so offending shall be liable to a fine not exceeding 100 Rupees.

Penalty in certain cases recoverable from proprietor.

XIII. Whenever the driver of any Stage Carriage or the owner of any horse employed in drawing any Stage Carriage shall have committed any offence against this Act for the commission whereof any penalty is by this Act imposed, other than an offence specified in Section VIII, and such driver or owner shall not be known, or being known cannot be found, or if the penalty cannot be recovered from such driver or owner, the proprietor of such carriage shall be liable to every such penalty as if he had been the driver of such carriage or owner of such horse

at the time when such offence was committed. Provided, that if any such proprietor shall make out, to the satisfaction of the Magistrate before whom any complaint or information shall be heard, by sufficient evidence, that the offence was committed by such driver or owner without the privity or knowledge of such proprietor, and that no profit, advantage, or benefit, either directly or indirectly, has accrued or can accrue to such proprietor therefrom, and that he has used his best endeavour to find out such driver or owner, and has done all that was in his power to recover the amount of the penalty from him, the Magistrate may discharge the proprietor from such penalty, and shall levy the same upon such driver or owner when found. Proviso.

XIV. Whenever any charge is made before any Magistrate of any offence under this Act on which it is necessary to issue a summons to the proprietor of a Stage Carriage, the Magistrate shall issue such summons directed to such proprietor or his nearest Agent, and may transmit such summons by letter post, which shall be deemed to be good service thereof. The letter shall be registered at the Post Office, and the cost of the registration shall be borne by the Government in the first instance, but may be charged as costs in the case. The summons shall allow a reasonable time, in reference to the distance to which the summons is sent, for the appearance of such proprietor or his Agent as aforesaid. Issue of Summons.

XV. All penalties incurred under this Act, shall be adjudged by a Magistrate or Chief Commissioner of Police as aforesaid, and all orders made under this Act by such Magistrate or Chief Commissioner of Police shall be final. Adjudication of penalties.

XVI. All penalties imposed under this Act, or any balance of any fine, costs, or charges as mentioned in Section XI of this Act, may, in case of non-payment or non-recovery thereof, be levied by distress and sale of the moveable property of the offender by warrant under the hand of the Magistrate who imposed the same. Recovery of penalties &c.

XVII. In case any such penalties shall not be forthwith paid, such Magistrate may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Magistrate for his appearance at such place and time as shall be appointed for the return of the warrant of distress. Offender may be apprehended and detained in Custody until return of Warrant of Distress.

XVIII. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Magistrate by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such penalty could be levied if warrant of distress were issued, such Magistrate may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed 50 Rupees, and for any term not exceeding four calendar months when the amount shall not exceed 100 Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount. Imprisonment of offender if Distress not sufficient.

XIX. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of penalty and the costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court. Recovery of penalty and costs from European British subjects.

XX. On complaint made before any Magistrate of any offence committed under this Act, it shall not be necessary to prove that the offence was committed within the local limits of such Magistrate or other Officer. Jurisdiction.

XXI. The term "Magistrate" in this Act shall include all Magistrates and other persons exercising the powers of a Magistrate. Interpretation, "Magistrate."

The term "British India" in this Act shall denote the Territories that are or shall be vested in Her Majesty by the Statue 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India."

The term "Horse" shall include ponies and mules.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include the feminine.

XXII. Repealed by Act XIV of 1870.

ACT No. XVII OF 1861.

(Received the assent of the Governor-General on the 7th July 1861.)

1. Rate of Duty to be charged on the exportation of Sugar from 9th March 1861.
2. New Duty to be collected under Act XIV of 1843.
3. Indemnity to Collectors, &c.

An Act to amend Act XIV of *1843 (for regulating the Customs Duties in the North-Western Provinces.)*

WHEREAS it is expedient to amend the law relating to Customs Duties so far as relates to the export Duty on Sugar or other saccharine produce in the North Western Provinces: It is enacted as follows:—

Rate of Duty to be charged on the exportation of Sugar from 9th March 1861.

I. From and after the 9th day of March 1861, in lieu of the Duty on Sugar and other saccharine produce, exported from the North Western Provinces, authorized to be charged under Act XIV of 1843 *(for regulating the Custom Duties in the North Western Provinces)*, there shall be collected and paid the following Duty, that is to say—

On the export of Misree, Kund, Cheene, and all clayed and refined Sugar, 1 Rupee per Maund.

On the export Goor, Rab, Sheerah and all unclayed and unrefined saccharine produce, 6 annas per maund.

New Duty to be collected under Act XIV of 1843.

II. The said new Duty shall be collected and paid under the provisions of the said Act XIV of 1843, in the same manner as if the said new Duty had been imposed thereby.

III. Repealed by Act XLV. of 1870.

ACT No. XIX OF 1861.*

(Received the assent of the Governor-General on the 16th July 1861.)

1. Laws Repealed.
2. No Body Corporate or person to issue Notes, &c., payable to bearer on demand. Exception in favour of Cheques.
3. Department of issue to be established.
4. Head Commissioner and Commissioners to be appointed.
5. Power to Governor-General in Council to establish Circles of issue.
6. Deputy Commissioners to be appointed.
7. Commissioners to be subordinate to Head Commissioners, Deputy Commissioners to Commissioner.
8. Notes to be prepared by Head Commissioner and distributed by him. Where payable.
9. When such Notes may be issued. Proviso.
10. The whole amount of bullion and coin received for Notes to be kept as a reserve to pay such Notes, excepting an amount not exceeding 4 crores of rupees to be fixed as the minimum limit of circulation.
11. In what names the Government Securities to stand.
12. Rules to be framed for keeping and auditing the accounts.
13. Abstract of accounts to be published.
14. Securities to be disposed of when necessary.
15. Interest of Securities to be paid to the credit of Government.
16. Notes where legal tender.
17. Name of Head Commissioner, &c., may be impressed with machinery.
18. Notes may be described as Promissory Notes.
19. Penalty for issuing such Notes contrary to provisions of this Act.
20. Definition of "British India."

An Act to provide for a Government Paper Currency.

WHEREAS it is expedient to provide for the issue by the Government of India of Promissory Notes payable to bearer on demand, and to regulate the

* See Act I, 1866 and XXX, 1867.

mode of issuing and securing payment of the same; and whereas due notice has been given by the Governor-General of India in Council to the Banks of Bengal, Bombay, and Madras respectively, as required by Acts VI of 1839. III of 1840 and IX of 1843, that the said Banks are to be modified by the power of the said Banks to issue Promissory Notes payable on demand ceasing from and after the day hereinafter provided; It is enacted as follows:—

I. Repealed by Act XIV. of 1870.

No Body Corporate or person to issue Notes, &c., payable to bearer on demand.

II. After the passing of this Act, no Body Corporate, person or persons whatsoever, in British India, (except the Banks of Bengal, Madras, and Bombay, up to the said 1st day of March 1862, and except as hereinafter provided), shall draw, accept, make, or issue any Bill of Exchange or Promissory Note, or engagement for the payment of money payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the Bills or Notes payable to bearer on demand of any such Body Corporate, or of any such person or persons. Provided that Cheques or Drafts payable to bearer on demand or otherwise may be drawn on Bankers, Shroffs, or Agents by the customers or constituents of such Bankers, Shroffs, or Agents, in respect of deposits of money in the hands of such Bankers, Shroffs, or Agents, and held by them at the credit and disposal of the persons drawing such Cheques or Drafts.

Exception in favor of Cheques.

Department of Issue to be established.

III. There shall be established by the Governor-General of India in Council a department of the Public Service, to be called the Department of Issue, either in connection with the Mints or otherwise, and from and after the passing of this Act there may be issued from the said Department, as hereinafter provided, Promissory Notes of the Government of India payable to bearer on demand, for such sums, not being less than 10 Rupees, as the Governor-General of India in Council shall from time to time direct.

Head Commissioner and Commissioners to be appointed.

IV. The Governor-General in Council, after the passing of this Act, shall appoint some person, who may be the Master of the Mint at Calcutta, to be called the Head Commissioner of the Department of Issue, and two other persons, who may be the Master of the Mint at Madras and Master of the Mint at Bombay, who shall be called respectively the Commissioners of Department of Issue at Madras, and Bombay, and it shall be lawful for the Governor-General of India in Council from time to time, by Rules to be published in the Gazettes of Calcutta, Madras and Bombay, to make such arrangements through any Officers of Government or with any persons, Banks, or Bodies Corporate, either at Calcutta, Madras, and Bombay or elsewhere, as may be required to regulate and facilitate the issue and payment, under the provisions of this Act, of Promissory Notes of the Government of India, of such denominations as shall be prescribed under the last foregoing Section, not being for any less sum than 10 Rupees.

Power to Governor General in Council to establish Circles of Issue.

V. It shall be lawful for the Governor-General of India in Council from time to time, by order to be published in the Gazettes of Calcutta, Madras, and Bombay, to establish in British India, Districts to be called "Circles of Issue," three of which Circles shall include the Towns of Calcutta, Madras, and Bombay, respectively, and in each Circle to appoint some one city or town to be the place of issue of Notes, as hereinafter provided. It shall be lawful for the Governor-General of India in Council by an order to be published as aforesaid, from time to time, to alter or extend the limits of the said Circles or any of them. Promissory Notes of the Government of India may be issued in the several Circles of issue as hereinafter provided.

Deputy Commissioners to be appointed.

VI. For each Circle of Issue other than those which include the Towns of Calcutta, Madras, and Bombay, there shall be appointed by the Governor General in Council an Officer of the Government or other person to be called the Deputy Commissioner of issue. In any Circle of Issue there may be also established an Agency or Agencies of Issue in connection with a Bank or otherwise.

Commissioners to be subordinate to Head Commissioner, Deputy Commissioners to Commissioner.

VII. For the purposes of this Act, the Commissioners at Madras and Bombay shall be subordinate to the Head Commissioner; the Deputy Commissioners and Agents in the Presidency of Fort William in Bengal shall be subordinate to the Head Commissioner; and the Deputy Commissioners and Agents in the Presidencies of Fort St. George and Bombay shall be subordinate to the Commissioners of Madras and Bombay respectively.

Notes to be prepared by Head Commissioner and distributed by him.

VIII. The Head Commissioner of Issue for the time being shall provide, on paper to be specially manufactured for the purpose, Promissory Notes of the Government of India payable to bearer on demand, of the denominations which shall be from time to time prescribed under Section III of this Act, and shall supply or cause to be supplied to the Commissioners at Madras and Bombay, and to the several Deputy Commissioners and Agents, such Notes as they shall require for the purposes of this Act, and all Notes shall bear upon them the name of the city or town from which they are severally issued, and shall be

Where payable.

payable only at the Office or Offices or Agencies of Issue of such city or town, and at the Presidency Town of the Presidency within which such city or town is situated.

When such Notes may be issued.

IX. The Head Commissioner, the Commissioners, and the Deputy Commissioners and Agents shall, in their respective "Circles of Issue," on the demand of any person, issue from such Office or Offices or Agencies of Issue as shall be established in the appointed city or town in their respective Circles, Promissory Notes of such denominations as shall be prescribed under Section III, not being for any less sum than 10 Rupees, on the terms following :—

First, in exchange for the amount thereof in current silver coin of the Government of India.

Or, *Secondly*, in exchange for the amount thereof in standard silver bullion or foreign silver coin computed according to such standard, at the rate of 979 Rupees per 1,000 tolahs of standard silver fit for Coinage ;

Proviso.

Provided that the said Head Commissioner, Commissioners, Deputy Commissioners, and Agents shall, in all cases, be entitled to require such silver bullion and foreign coin to be melted and assayed at the expense of the person tendering the same, and provided also that in all places where there is no Mint of the Government of India, it shall be optional for any such Head Commissioner, Commissioner, Deputy Commissioners and Agents, to issue Notes in exchange for silver or foreign coin under this Section ;

Or, *thirdly*, in exchange for other Notes of the Government of India payable to bearer on demand of other amounts issued within the same Circle.

Provided also, that it shall be lawful for the Governor General in Council from time to time to direct, by order to be published in the Gazettes of Calcutta, Madras, and Bombay, that Notes to an extent to be specified in the order, not exceeding one-fourth of the total amount of issues represented by coin and bullion as herein provided, shall be issued at such Offices or Agencies of Issue as may be made in the order, in exchange for gold coin of full weight of the Government of India, or for foreign gold coin or gold bullion computed at such rates and according to such rules and conditions as shall be fixed by such order, and which rates, rules, and conditions shall not be altered without six months' previous notice. Whenever such order shall be issued, the Head Commissioner, Commissioners, Deputy Commissioners, and Agents, at the Offices or Agencies specified in the order, shall be bound to issue Notes on demand in conformity with such order.*

The whole amount of bullion and coin received for Notes to be kept as a reserve to pay such Notes, excepting an amount no exceeding 4 crores of Rupees to be fixed as the minimum limit of circulation.

X. The whole amount of the bullion and coin so received for Notes shall be retained and secured as a reserve to pay such Notes, with the exception of such an amount, not exceeding four crores of Rupees, as the Governor-General in Council, with the consent of the Secretary of State for India, shall from time to time fix. The amount so fixed shall be published in the Gazettes of Calcutta, Madras, and Bombay, and shall be invested in Government securities, and the said coin, bullion and securities shall be appropriated and set apart to provide for the satisfaction and discharge of the said Notes ; and the said Notes shall be deemed to have been issued on the security of the coin, bullion, and securities so appropriated and set apart, as well as on the general credit of the Government. Provided that any gold coin or bullion which may be received under this Act, may be sold or exchanged for silver coin or bullion to be so appropriated and set apart, instead of the gold coin or bullion.

In what names the Government Securities to stand.

XI. The Government Securities purchased under this Act in the Presidency of Fort William in Bengal shall stand in the name of the Head Commissioner and the Master of the Mint at Calcutta ; the Government Securities purchased under this Act in the Presidency of Fort Saint George shall stand in the name of the Commissioner at Madras and the Master of the Mint at Madras ; and the Government Securities purchased under this Act in the Presidency of Bombay shall stand in the name of the Commissioner at Bombay and the Master of the Mint at Bombay. Provided that if the Head Commissioner or Commissioner in any case be the Master of the Mint, the Governor-General in Council shall appoint another Trustee or Trustees in addition to the Master of the Mint.

Rules to be framed for keeping and auditing the Accounts.

XII. The Head Commissioner from time to time shall frame Rules to be approved by the Governor-General of India in Council, for keeping the accounts of the said Department of Issue, and for the auditing of such accounts, and for otherwise regulating the business of the Department ; provided that such Rules shall be in no wise inconsistent with the provisions of this Act.

Abstract of accounts to be published.

XIII. An Abstract of the accounts of the Department, shewing the whole amount of Notes in circulation, the amount of coin and bullion reserved,

* Amended by Act 1. 1866, which *see*.

distinguishing gold from silver, and the amount of the Government Securities held by the said Department, shall be made up monthly in Calcutta, and published as soon may be in the Gazettes of Calcutta, Madras and Bombay.

Securities to be disposed of when necessary.

XIV. It shall be lawful for the Head Commissioner in respect of the Presidency of Fort William in Bengal, and for the Commissioners at Madras and Bombay in respect of the Presidencies of Madras and Bombay respectively, at any time when they shall be ordered so to do by the Governor-General of India in Council, to sell and dispose of any portion of the above-mentioned limited amount of Government Securities standing in their names respectively, and in the names of the Masters of the Mint or Trustees as aforesaid; and for the purpose of effecting such sales, the said Master of the Mint or Trustees respectively shall, on a request in writing from the said Head Commissioner or Commissioner in their respective Presidencies, at all times sign and endorse such Government Securities as shall stand in their names respectively, and it shall be lawful for the said Head Commissioner or Commissioners, if directed by the Governor-General of India in Council, to purchase Government Securities to replace their sales.

Interest of Securities to be paid to the credit of Government.

XV. The interest accruing due on the Government Securities purchased and held under this Act shall be entered in a separate account, to be annually rendered by the Head Commissioner to the Governor-General of India in Council; and the amount of such interest shall, from time to time, as it becomes due, be paid by the Accountants General in the several Provinces of India, into the revenues of the Government of India, under the head of "Profits of Notes Circulation," and an account shewing the amount of profits of the Note circulation and of the charges and expenses incidental thereto, shall be made up and published annually in the Gazettes of Calcutta, Madras, and Bombay.

Notes where tender.

XVI. Within any of the "Circles of Issue," as hereinbefore provided, a tender of a Note or Notes issued under this Act from any Office or Agency of Issue of such "Circle of Issue," shall be a legal tender to the amount expressed in such Note or Notes, and shall be taken to be valid as a tender to such amount in payment of any revenue or other claim to the amount of 10 Rupees and upwards due to the Government of India, and in payment of any sum of 10 Rupees and upwards due by the Government of India, or by any Body Corporate or by any person or person in British India, on all occasions whatsoever on which any tender of money can be legally made. Provided that no such Note or Notes shall be deemed to be a legal tender of payment by the Government of India at any Office or at the Issue Department of any Agency of Issue.

Name of Head Commissioner &c., may be impressed with Machinery.

XVII. The name of the Head Commissioner, of either of the Commissioners, of any Deputy Commissioner, or of any other person authorized by the said Head Commissioner, or by either of the said Commissioners to sign Notes issued under this Act, may be impressed or affixed by machinery provided for that purpose by the Government of India, and such printed names shall be taken to be good and valid signatures to all intents and purposes, as if such Notes had been subscribed in the proper hand-writing of any one of the persons aforesaid whose signatures the said printing purports to represent.

Notes may be described as Promissory Notes.

XVIII. All Notes issued under this Act shall be deemed and taken to be Promissory Notes of the Government of India, and may and shall be described as Promissory Notes of the Government of India in all indictments, and in Criminal and Civil proceedings, any law or usage to the contrary notwithstanding.

Penalty for issuing such Notes contrary to provisions of this Act.

XIX. If any Body Corporate or person, after the passing of this Act, shall, contrary to the provisions of this Act, draw, accept, make, or issue any Bill of Exchange Promissory Note, or engagement for the payment of money payable to bearer on demand, or borrow, owe, or take up any sum or sums of money on the Bills or Notes or engagements for the payment of money payable to bearer on demand of any such Body Corporate or person such body Corporate or person shall be liable to a penalty to the amount of every such Bill of Exchange, Promissionery Note, or engagement for the payment of money, to be recovered on the prosecution of the Head Commissioner, Commissioner, or Deputy Commissioner, as the case may be, of the "Circle of Issue," in which such Bill of Exchange, Promissory Note, or engagement for the payment of money is issued, before any Police Magistrate or Magistrate within such "Circle of Issue," and in case of conviction, and default of payment of such penalty, the Police Magistrate or Magistrate who shall try the case shall issue his warrant to levy the amount thereof, together with the reasonable costs of the prosecution, by distress and sale of the goods and chattels of the Body Corporate or person so convicted.

Definition of "British India."

XX. The words "British India" in this Act shall denote the Territories that are or may be vested in Her Majesty by the Statute 21 and 22 Vic. c 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

ACT No. XXII OF 1861.

(Received the assent of the Governor-General on th 20th August 1861.)

I—V. Repealed by Act XVII, 1862.

Power of Seizing cattle.

VI. The power of seizing or causing to be seized any Cattle trespassing on, or doing damage to, any land, or to any crop or produce thereon, conferred by Section II of the said Act III of 1857, may be exercised, subject to the provisions of the said Act, by any person who has given cash advances for the cultivation of the crop or produce on such land, or to whom such crop or produce shall have been sold or mortgaged.

ACT No. XXIII OF 1861.

(Received the assent of the Governor-General on the 28th August 1861.)

1. Acts repealed.

2. Cost of serving process. Requisite sum to be paid into Court within a certain time before process is issued.

3. Plaint to be returned, if it appear to the Court that it has not jurisdiction.

4. In what Court a suit against several defendants may be brought.

5. Procedure on discovery, on the day fixed for defendant to appear and answer, that usual notice has not been served in consequence of failure of plaintiff to deposit the cost of issuing the same.

6. Provisions of last Section to apply to appeals also.

7. Procedure in case of dismissal of suit under Section V.

8. Procedure on application for discharge by a person arrested in execution of a decree for money.

9. Court may of its own accord summon witnesses.

10. In suits for money, decree may order certain interest to be paid on the principal sum adjudged.

11. How questions regarding amount of mesne profits and interest and sums paid in satisfaction of decrees. &c., are to be determined.

12. Appeals from orders rejected under Section CCCLXIV, Act VIII of 1859, may be admitted on Application to be on Stamp paper.

13. In suits of the nature and amount cognizable by small Cause Courts, Court may on verbal application of the judgment-creditor direct immediate execution against either the person or property of judgment-debtor.

14. Co-sharer of a share of a Putteedaree Estate sold in execution of decree may claim to take the share at the sale price. Proviso.

15. Procedure on reciving application for execution of decree.

16. Procedure when certain offences under Chapter XI of the Penal Code are committed in any case pending before any Court.

17. Court may take bail and bind over witnesses to give evidence.

18. How the Charge is to be framed.

19. Procedure in case of certain offences relating to documents.

20. Procedure in case person accused under Section XVI or XIX is a European British subject.

21. Procedure in certain cases of contempt.

22. Discharge of an offender on his submission.

23. Appeal to lie from all decrees, except when expressly prohibited. Appeal to Sudder Court to be heard by two or more Judges.

24. Procedure in case of application by sureties to be discharged.

25. Application for the admission of a special appeal informally drawn up, how to be dealt with.

26. No appeal from order or decision under Section XV, Act XIV of 1859.

27. No special appeal from decision of any Court subordinate to the Sudder Court in certain suits.

28. Reference of question to the Sudder.

29. Court may pass decree contingent upon the opinion of the Sudder Court, pending which execution not to issue.

30. Two or more Judges of Sudder Court to decide cases referred under Section XXVIII.
31. Sudder Court to fix an early day for the hearing of the case Proclamation thereof.
32. Parties may appear and be heard in person or by pleader.
33. Decision of Sudder Court how to be transmitted.
34. Costs of reference to Sudder Court.
35. Sudder Court may call for record of lower Appellate Court, and set aside its decision, though no appeal shall lie to the Sudder Court.
36. Security may be taken when execution is required of a decree which has been appealed against.
37. Appellate Court to have same powers as Courts of original jurisdiction.
38. Procedure prescribed by Act VIII of 1859, to be followed in all future miscellaneous cases and proceedings.
39. Extension of Act to Non-Regulation Provinces.
40. Sudder Court to make general rules for regulating proceedings, &c.
41. Interpretation of "Pleader."
42. Short Title.
43. Sections XVI to XXII of this Act when to take effect.
44. Construction.

An Act to amend Act VIII of 1859 (*for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter.*)

WHEREAS it is expedient to amend Act VIII of 1859, (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) and to consolidate the Acts previously passed for the amendment of the said Act; It is enacted as follows:—

I. Repealed by Act XIV. of 1870.

Cost of serving process.

II. Every process required to be issued under Act VIII of 1859, shall be served at the expense of the party at whose instance it is issued, unless otherwise specially directed by the Court; and the sum required to defray the costs of such service shall be paid into the Court before the process is issued, within a period to be fixed by the Court issuing the process.

Requisite sum to be paid into Court within a certain time before process is issued.

Plaint to be returned, if it appear to the Court that it has not jurisdiction.

III. If it appear to the Court in any case relating to land or other immoveable property that such land or other property is not situate within the limits of the jurisdiction of the Court, or in any other case that the cause of action did not arise, and that the defendant is not dwelling or personally working for gain, within such limits, the Court shall return the plaint to the plaintiff in order to its being presented in the proper Court.

In what Court a suit against several defendants may be brought.

IV. If in any suit there are more defendants than one, and at the date of the institution of the suit all the defendants shall not reside within the jurisdiction of the Court in which the suit is brought, but one or more of the defendants shall reside within such jurisdiction, the suit shall not be rejected by reason of all the defendants not residing within the jurisdiction of the Court in which the suit is brought, but the District Court, if the suit is pending in any Court subordinate to such Court, or the Sudder Court, may order that the suit be heard in any Court subordinate to such Sudder or District Court, and competent in respect of the value of the suit to try the same.

Procedure on discovery, on the day fixed for defendant to appear and answer, that usual notice has not been served in consequence of failure of plaintiff to deposit the cost of issuing the same.

V. If on the day fixed for the defendant to appear and answer to a suit, it shall be found that the summons to the defendant has not been served in consequence of the failure of the plaintiff to deposit, within the time allowed, the sum required to defray the cost of issuing the summons, the Court may order that the suit be dismissed. Provided that no such order shall be passed, although the summons hall not have been served upon the defendant, if on the day fixed for the defendant to appear and answer he shall have entered an appearance by a pleader or by a duly authorized Agent when he is allowed to appear by Agent, or shall be in attendance in person,

Provisions of last Section to apply to appeals also.

VI. The provisions of the last preceding Section shall apply to appeals also.

Procedure in case of dismissal of suit under Section V.

VII. Whenever a suit is dismissed under the provisions of Section V of this Act, the plaintiff shall be at liberty to institute a fresh suit, unless precluded by the rules for the limitation of actions, or if the plaintiff shall satisfy the Court within the period of thirty days from the date of the order dismissing the suit, that there was a sufficient excuse for his not making the deposit required within the time allowed, the Court may order a fresh summons to issue upon the plaint already filed.

Procedure on application for discharge.

VIII. When a person arrested under a warrant in execution of a decree for money, shall, on being brought before the Court, apply for his discharge on either

by a person arrested in execution of a decree for money.

of the grounds mentioned in Section CCLXXIII of Act VIII of 1859 the Court shall examine the applicant in the presence of the plaintiff or his pleader, as to his then circumstances and as to his future means of payment, and shall call upon the plaintiff to shew cause why he does not proceed against any property of which the defendant is possessed and why the defendant should not be discharged; and should the plaintiff fail to shew such cause, the Court may direct the discharge of the defendant from custody. Pending any enquiry which the Court may consider it necessary to make into the allegations of either party, the Court may leave the defendant in the custody of the Officer of the Court to whom the service of the warrant was entrusted, on the defendant depositing the fees of such Officer, which shall be at the same daily rate as the lowest rate charged in the same Court for serving process; or if the defendant furnish good and sufficient security for his appearance at any time when called upon while such enquiry is being made, his surety or sureties undertaking in default of such appearance to pay the amount mentioned in the warrant, the Court may release the defendant on such security.

Court may of its own accord summon witness.

IX. If the Court shall at any time think it necessary for the ends of justice to examine any person other than a party to the suit and not named as a witness by a party to the suit, the Court may, of its own accord, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession on a day to be appointed, and may examine such person as a witness. The costs of summoning such person, if not deposited by either party to the suit, shall be paid by the Collector under an order of the Court, and shall be costs in the suit, and shall be paid out of any money recovered on account of costs in the suit, whether at the instance of the Government or of either party, before any other costs in the suit are paid.

In suits for money decree may order certain interest to be paid on the principal sum adjudged.

X. When the suit is for a sum of money due to the plaintiff, the Court may, in the decree, order interest at such rate as the Court may think proper to be paid on the principal sum adjudged from the date of suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the date of suit; with further interest on the aggregate sum adjudged and on the costs of the suit from the date of the decree to the date of payment.

How questions regarding amount of mesne profits and interest and sums paid in satisfaction of decrees, &c. are to be determined.

XI. All questions regarding the amount of any mesne profits which by the terms of the decree may have been reserved for adjustment in the execution of the decree, of any mesne profits or interest which may be payable in respect of the subject-matter of a suit between the date of the institution of the suit and execution of the decree, or as well as question relating to sums alleged to have been paid in discharge or satisfaction of the decree or the like, and any other questions arising between the parties to the suit in which the decree was passed and relating to the execution of the decree, shall be determined by order of the Court executing the decree, and not by separate suit, and the order passed by the Court shall be open to appeal. Provided that if upon a perusal of the petition of appeal and of the order against which the appeal is made, the Court shall see no reason to alter the order, it may reject the appeal, and it shall not be necessary in such case to issue a notice to the respondent before the order of rejection is passed.

Appeals from orders rejected under Section CCCLXIV of 1859, may be admitted on application.

XII. An appeal from an order passed in execution of a decree which shall have been rejected as inadmissible under Section CCCLXIV of Act VIII of 1859, or which would have been inadmissable before the passing of this Act, but which is rendered admissible by this Act, may be admitted on an application in writing to the Court which rejected the appeal or by which the appeal, had it been admissible before the passing of this Act, would have been cognizable, provided the application be preferred within ninety days from the date of the passing of this Act. The application may be written on the Stamp paper prescribed for petitions in the Court to which it is presented when a Stamp on petitions is required.

Application to be on Stamp paper.

In suits of the nature and amount cognizable by Small Cause Courts, Court may on verbal application of the judgment-creditor direct immediate execution either against the person or property of jugdment-debtor.

XIII. When a decree is passed in any suit of the nature and amount cognizable by Courts of Small Causes constituted under Act XLII of 1860, the Court passing the decree, whether such Court be a Court constituted as aforesaid, or any other Court, may, at the same time that it passes the decree, on the verbal application of the party in whose favor the decree is given, direct immediate execution thereof by the issue of a warrant directed either against the person of the judgment-debtor, if he is within the local limits of the jurisdiction of the Court passing the decree, or against the personal property of the judgment-debtor, within the same limits. If the warrant be directed against the personal property of the judgment-debtor it may be general against any personal property of the judgment-debtor wherever it may be found within the local limits of the jurisdiction of the Court, or special against any personal property belonging to

the judgment-debtor within the same limits, which shall be indicated by the judgment-creditor.

XIV. When the land sold in execution of a decree is a share of a Putteedaree Estate paying Revenue to Government as defined in Section II Act I of 1841, *(for facilitating the collection of the Revenue of Government and defining the interest intended to be conveyed by public sales for the realization of arrears of the Public Revenue in Putteedaree Estates)*, if the lot shall have been knocked down to a stranger, any co-sharer other than the judgment debtor, or any other member of the co-parcenary, may claim to take the share sold at the sum at which the lot was knocked down. Provided that the claim be made on the day of sale, and the claimant fulfil all the conditions of the sale.

Co-sharer of a share of a Putteedaree Estate sold in execution of decree may claim to take the share at the sale price.

Proviso.

XV. The Court, on receiving any application for execution of a decree containing the particulars mentioned in Section CCXII of Act VIII of 1859, or such of them as may be applicable to the case, shall enter a note of the application and the date on which it was made in the Register of the suit. If it shall be shewn to the Court that the particulars do not correspond with the original decree, the Court shall either return the application for correction to the person making it, or shall, with the consent of such person, cause the necessary correction to be made. If the application be admitted, the Court shall order execution of the decree according to the nature of the application.

Procedure on receiving application for execution of decree.

XVI. When in any case pending before any Court any witness or other person shall appear to the Court to have been guilty of an offence described in Section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, or 210 of the Indian Penal Code, the Court may commit such person to take his trial for the offence before the Court of Session, or after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having jurisdiction to try or commit for trial the accused person for the offence charged, and such Magistrate shall thereupon proceed according to law.

Procedure when certain offences under Chapter XI of the Penal Code are committed in any case pending before any Court.

XVII. The Court may send the person accused in custody or take sufficient bail for his appearance before the Magistrate and may bind over any person to appear and give evidence before the Magistrate.

Court may take bail and bind over witnesses to give evidence.

XVIII. When the commitment is made by the Court, the Court shall frame a charge in the manner provided in Chapter XII of the Code of Criminal Procedure, and shall transmit the same with the order of commitment and the record of the case to the Magistrate, and such Magistrate shall bring the case together with the witnesses for the prosecution and defence before the Court of Session.

How the charge is to be framed.

XIX. When in any case pending before any Court there shall appear to the Court sufficient ground for sending for investigation to the Magistrate, a Charge described in Sections 463, 471, 475, or 476 of the Indian Penal Code, which may be preferred in respect to any deed or paper offered in evidence in the case, the Court may send the person accused in custody to the Magistrate or take sufficient bail for his appearance before the Magistrate. The Court shall send to the Magistrate the evidence and documents relevant to the charge and shall bind over any person to appear and give evidence before such Magistrate. The Magistrate shall receive such charge and proceed with it under the rules for the time being force.

Procedure in case of certain offences relating to documents.

XX. If the person accused or any one of the persons accused in any case falling under Section XVI or Section XIX of this Act is a European British subject, the Court shall send such person in custody or take sufficient bail for his appearance before an Officer empowered to commit or hold to bail persons charged with offences for trial before a Supreme Court of Judicature, and such Officer shall proceed according to law.

Procedure in case person accused under Section XVI or XIX is a European British subject.

XXI. When any such offence as is described in Sections 175, 178, 179, 180, or 228 of the Indian Penal Code is committed in the view or presence of any Court, it shall be competent to such Court to cause the offender, whether he be a European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day to take cognizance of the offence; and to adjudge the offender to punishment by fine not exceeding 200 Rupees, or by imprisonment in the Civil Jail for a period not exceeding one month unless such fine be sooner paid. In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence. If the Court, in any case, shall consider that a person accused of any offence above referred to should be imprisoned, or that a fine exceeding 200 Rupees should be imposed upon him, such Court, after recording the facts constituting the contempt, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject to a Justice of the Peace, and shall cause bail to be taken for the appearance of such accused person before such Magistrate, or Justice of the Peace,

Procedure in certain cases of contempt.

or if sufficient bail be not tendered, shall cause the accused person to be forwarded under custody to such Magistrate or Justice of the Peace. If the case be forwarded to a Magistrate, such Magistrate shall proceed to try the accused person in the manner provided for trials before a Magistrate, and it shall be competent to such Magistrate to adjudge such offender to punishment, as provided in the Section of the Indian Penal Code under which he is charged. If the case be forwarded to a Justice of the Peace, such Justice of the Peace, shall enquire into the circumstances, and shall have the same powers of punishing the offender as are vested by the Statute 53 George III, c. 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature.

Discharge of an offender on his submission.

XXII. When any person has been sentenced to punishment under the last preceding Section, for refusing or omitting to do anything which he was lawfully required to do, it shall be competent to the Court to discharge the offender, or to remit the punishment, on the submission of the offender to the order or requisition of such Court.

Appeal to lie from all decrees, except when expressly prohibited.

Appeal to Sudder Court to be heard by two or more Judges.

XXIII. Except when otherwise expressly provided in this or any other Regulation or Act for the time being in force, and appeal shall lie from the decrees of the Courts of original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts. If the appeal lie to the Sudder Court, it shall be heard and determined by a Court consisting of two or more Judges of that Court. If, when the Court consists of only two Judges, there is a difference of opinion upon the evidence in cases in which it is competent to the Court to go into the evidence and one Judge concur in opinion with the Lower Court as to the facts, the case shall be determined accordingly: if in a Court so constituted there is a difference of opinion upon a point of law, the Judges shall state the point upon which they differ, and the case shall be re-argued upon that question before one or more of the other Judges and shall be determined according to the opinion of the majority of the Judges of the Sudder Court by whom the appeal is heard.

Procedure in case of application by sureties to be discharged.

XXIV. The sureties for the appearance of any person under Section LXXVI of the said Act VIII of 1859, may at any time apply to the Court in which they became such sureties to be discharged from their engagements. On such application being made the Court shall summon such person to attend, or if it shall think fit, may issue a warrant in the first instance for his appearance. On the appearance of such person pursuant to the summons or warrant, or on his voluntary surrender, the Court shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties and thereupon proceedings shall be had under Sections LXXVII and LXXVIII of the said Act.

Application for the admission of a special appeal informally drawn up, how to be dealt with.

XXV. If the application for the admission of a special appeal be not written on a stamp paper of the prescribed value, or if it be not drawn up in the manner laid down in Section CCCLXXIV of Act VIII of 1859, or if it do not state any ground on which a special appeal will lie under the provisions of Section CCCLXXII of the said Act, the Court may reject the application, or may return it to the party for the purpose of being corrected. The order for rejecting the application or for returning it to the party may be passed by a single Judge of the Court. When the application is correctly drawn up, it shall be registered in a book to be kept for that purpose, which shall be in the form contained in the Schedule D of the said Act, and the case shall proceed in all other respects as a regular appeal, and shall be subject to all the rules hereinbefore provided for such appeals, so far as the same may be applicable.

No appeal from order or decision under Section XV, Act XIV of 1859.

XXVI. No appeal shall lie from any order or decision passed in any suit instituted under Section XV, Act XIV of 1859 (*to provide for the limitation of suits*), nor shall any review of any such order or decision be allowed.

No special appeal from decision of any Court subordinate to the Sudder Court in certain suits.

XXVII. No special appeal shall lie from any decision or order which shall be passed on regular appeal after the passing of this Act by any Court subordinate to the Sudder Court, in any suit of the nature cognizable in Courts of Small Causes under Act XII of 1860 (*for the establishment of Courts of Small Causes beyond the local limits of the Jurisdiction of the Supreme Courts of Judicature established by Royal Charter*), when the debt, damage, or demand for which the original suit shall be instituted shall not exceed 500 Rupees; but every such order or decision shall be final.

Reference of question to the Sudder.

XXVIII. If in any suit in which an order or decision is made final under the last preceding Section, any question of law, or usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court trying such suit shall entertain reasonable doubts, the Court may, either of

its own motion or on the application of either of the parties to the suit, draw up a statement of the case and submit such statement with it own opinion for the decision of the Sudder Court.

XXIX. The Court may proceed in the case notwithstanding a reference to the Sudder Court, and may pass a decree contingent upon the opinion of the Sudder Court on the point referred; but not execution shall be issued in any case in which a reference shall be made to the Sudder Court until the receipt of the order of that Court.

Court may pass decree contingent upon the opinion of the Sudder Court, pending which execution not to issue.

XXX. Cases referred for the opinion of the Sudder Court shall be dealt with by two or more Judges of that Court.

Two or more Judges of Sudder Court to decide cases referred under Section XXVIII.

XXXI. The Sudder Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court-house of that Court.

Sudder Court to fix an early day for the hearing of the case. Proclamation thereof.

XXXII. The parties to the case may appear and be heard in the Sudder Court in person or by pleader.

Parties may appear and be heard in person or by pleader.

XXXIII. The Sudder Court, when it has heard and considered the case, shall transmit a copy of its judgment under the seal of the Court and the signature of the Register, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the Sudder Court.

Decision of Sudder Court how to be transmitted.

XXXIV. Costs, if any, consequent on the reference of a case for the opinion of the Sudder Court, shall be costs in the suit.

Costs of reference to Sudder Court.

XXXV. The Sudder Court may call for the record of any case decided on appeal by any Subordinate Court in which no further appeal shall lie to the Sudder Court, if such subordinate Court shall appear in hearing the appeal to have exercised a jurisdiction not vested in it by law, and the Sudder Court may set aside the decision passed on appeal in such case by the Subordinate Court, or may pass such other order in the case as to such Sudder Court may seem right.

Sudder Court may call for record of lower Appellate Court, and set aside its decision, though no appeal shall lie to the Sudder Court.

XXXVI. When an order is made for the execution of a decree against which an appeal has been preferred, it shall be lawful for the Court which pronounced the decree to require security to be given for the restitution of any property which may be taken in execution of the decree or of the value thereof, and for the due performance of the decree or order of the Appellate Court. The Appellate Court may in any such case direct the Court which pronouned the decree to take such security.

Security may be taken when execution is required of a decree which has been appealed against.

XXXVII. Unless when otherwise provided, the Appellant Court shall have the same powers in cases of appeal which are vested in the Courts of original jurisdiction in respect of original suits.

Appellate Court to have same powers as Courts of original jurisdiction.

XXXVIII. The procedure prescribed by Act VIII of 1859 shall be followed as far as it can be in all miscellaneous cases and proceedings which after the passing of the Act shall be instituted in any Court.

Procedure prescribed by Act VIII of 1859, to be followed in all future miscellaneous cases and proceedings.

XXXIX. When under the provisions of Section CCCLXXXV of the said Act, the Act is extended to any part of the Territories not subject to the General Regulations of Bengal, Madras, and Bombay, it shall be lawful for the Government to which the territory is subordinate to declare that the Act shall take effect therein subject to any restriction, limitation, or proviso which it may think proper. In such case the restriction, limitation, or proviso shall be inserted in the declaration or notification of such extension. When the Act is extended by the Local Government to any territory subordinate to such Government, and such extension is made subject to any restriction, limitation, or proviso, the previous sanction of the Governor-General of India in Council shall be requisite.

Extension of Act to Non-Regulation Provinces.

XL. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of that Court and the Courts subordinate to it, also to frame forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, for keeping all books, entries, and accounts to be kept by the Officers, and for the preparation and submission of any statements to be prepared and submitted, by such Courts, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force. Any rules framed under this Section shall be published in the Official Gazette.

Sudder Court to make general rules for regulating proceedings, &c.

XLI. The word "Pleader" as used in this Act shall include the words "Counsel" and "Advocate."

Interpretation of "Pleader."

XLII. Act VIII of 1859 shall be called the Code of Civil Procedure,

Short Title.

XLIII. Repealed by Act XIV of 1870.

XLIV. This Act shall be read and taken as part of Act VIII of 1856.

Construction.

ACT No. XXIV OF 1861.

(Received the assent of the Governor-General on the 21st August 1861.)

1. *Banks may enter into certain arrangements with Government.*
2. *Banks may transact the business incident to such arrangements.*

An Act to enable the Banks of Bengal, Madras, and Bombay to enter into arrangements with the Government for managing the issue, payment and exchange or Government Currency Notes and certain usiness hitherto transacted by the Government Treasuries.

WHEREAS it is expedient to authorize the Banks of Bengal, Madras, and Bombay to enter into the agreements and arragements hereinafter mentioned; It is enacted as follows:—

Banks may enter into certain arrangements with Government.

I. It shall be lawful for any of the said Banks, by agreements under their corporate seal, to enter into agreements or arrangements with the Secretary of State for India in Council through the Governor Generel of India in Council, the Governor of Madras in Council, and the Governor of Bombay in Council respectively, for superintending, managing, and becoming agents for the issue, payment, and exchange of Promissory Notes of the Government of India, payable on demand under Act XIX of 1861 (*to provide for a Government Paper Currency*) or any Act which may hereafter be passed in relation to the Paper Currency of the Government of India; for the carrying on the business of an Agency of Issue under the said Act XIX of 1861 in any Circle of Issue in which any of the said Banks shall have established a Branch Bank under Act VI of 1839 (*relating to the Bank of Bengal*) or any other Act; and for transacting any part of the busines; of, or hitherto generally transacted by, or at the General Treasuries of the Governments at the several Presidencies of Fort William, Madras, and Bombay respectively.

Banks may transact the business incident to such arrangements.

II. It shall be lawful for the said Banks of Bengal, Madras, and Bombay, in addition t the modes of business in which they may now by the law be respectively engaged, to transact, in accordance with the provisions of the said agreements or arrangements entered into under Section I of this Act, all or any of the business appertaining to the superintendence, management, or agency for the issuing, payment, or exchange in the first Section mentioned, and the business of an Agency of Issue under the said Act XIX of 1861 in any such Circle of Issue as aforesaid, or all or any of the business of, or hitherto generally transacted by, the General Treasuries in the Section mentioned.

ACT NO. XXV OF 1861.

(Received the assent of the Governor-General on the 5th Sept. 1861.)

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Form of Security to be subjoined to the Bond of the Principal.

SCHEDULE.

An Act for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter.

WHEREAS it is expedient to simplify the Procedure of the Courts of Criminal Judicature not established by Royal Charter; It is enacted as follows :—

Short title.

1. This Act shall be called the Code of Criminal Procedure.

CHAPTER I.

OF DEFINITIONS.

Interpretation.

2. The following words and expressions in this Act shall have the meanings thereby assigned to them, unless there be something in the subject or context repugnant to such construction.

"British India."

3. The words "British India" shall denote the territories that are or shall become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India," except the settlement of Prince of Wales' Island, Singapore, and Malacca.

"Special law."

4. The words "special law" shall denote a law applicable to a particular subject,

"Local law."

5. The words "local law" shall denote a law applicable only to a particular part of British India.

"Moveable property."

6. The words "moveable property" shall include corporeal property of every description, except land and things attached to the earth or permanently fastened to anything which is attached to the earth.

Number.

7. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

8. Words importing the masculine gender shall include the feminine.

"Enquired into." "Determined."

9. The words "enquired into" shall be deemed to comprise every proceeding preliminary to trial; and the word "determined" to comprise trial, and every subsequent proceeding, including the punishment of the offender.

"Written."

10. The word "written" shall include "printed," "lithographed," and engraved."

"Criminal Court."

11. The words "Criminal Court" shall denote every Judge or Magistrate lawfully exercising Jurisdiction in criminal cases, whether for the decision of such cases in the first instance, or on appeal, or for commitment to any other Court or Officer.

"Court of Justice."

12. The words "Court of Justice" shall denote a Judge who is empowered by law to act Judicially alone, or a body of Judges empowered by law to act Judicially as a body when such Judge or body of Judges is acting Judicially.

"Court of Session."

13. The words "Court of Session" shall, subject to the limitations in Sections 22, include the Courts of the Assistant Sessions Judges in the Presidency of Bombay.

"Magistrate of the District."

14. The words "Magistrate of the District" shall mean the Chief Officer charged with the executive administration of a District in criminal matters by whatever designation such Officer is called.

"Magistrate."

15 The word "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate.

"The powers of a Magistrate."

16. The words "the powers of a Magistrate" shall imply the full powers of a Magistrate.

"Any of the powers of a Magistrate."

17. The words "any of the powers of a Magistrate" shall denote powers less than the full powers of a Magistrate.

"District."

18. The local Jurisdiction of the Magistrate of a District shall, for the purposes of this Act, be deemed a "District;" and the local Jurisdiction in a particular part of a District vested in a Magistrate other than the Magistrate of the District, shall be deemed a "Division of a District."

"Division of a District."

"Sudder Court."

19. In any part of British India to which this Act shall be extended, under the provisions of Section 445, the words "Sudder Court" shall denote the highest Criminal Court of Appeal or revision in such part established.

"Year." "Month."

20. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British Calendar.

CHAPTER II.

OF THE JURISDICTION OF THE CRIMINAL COURTS.

Offences cognizable by Criminal Courts.

21. The Criminal Courts of the several grades, according to the powers vested in them respectively by this Act, shall have jurisdiction in respect of offences punishable under the Indian Penal Code (Act XLV of 1860) or under any special or

local law (except offences which are by any such law made punishable by some other authority therein specially mentioned), and in the investigation and trial of the offences hereby declared to be within their jurisdiction, shall be guided by the provisions of this Act.

By what Courts the offences named in the Schedule are triable and within what limits such Courts may pass sentence.

22. The offences mentioned in the Schedule annexed to this Act shall, subject to the provision contained in the third explanatory note prefixed to the said Schedule, be triable by the Courts specified in Column 7 of the said Schedule, and such Courts shall be competent to pass sentence in respect of such offences within the following limits, (that is to say,)

The Courts of Session. Death (subject to confirmation by the Sudder Court). Transportation, imprisonment of either description for a period not exceeding fourteen years, including such solitary confinement as is authorized by law, or fine to an unlimited amount or both transportation and fine, or imprisonment and fine, in cases in which both punishments are authorized by the Indian Penal Code. In cases in which, according to the Indian Penal Code, forfeiture of property may be adjudged, the Court of Session may adjudge such forfeiture in addition to the sentence.

In the Presidency of Bombay it shall be lawful for a Sessions Judge to delegate cases for trial by an Assistant Sessions Judge: and such Assistant Sessions Judge shall be competent in such cases to pass sentences within the following limits:—Imprisonment of either description for a term not exceeding seven years (including such solitary confinement as is authorized by law), or fine, or both. If the sentence be one of imprisonment for a term exceeding three years, it shall be passed subject to confirmation by the Session Judge. The Sessions Judge may review and hear appeals against the proceedings of his Assistants, and may confirm and amend (but not so as to enhance), or may reverse their sentences or orders. It shall not be competent to an Assistant Sessions Judge to review or hear an appeal against the proceedings of a Magistrate.

The Magistrate of a District or other Officer authorized to exercise the powers of a Magistrate. Imprisonment of either description not exceeding the term of two years, including such solitary confinement as is authorized by law, or fine to the extent of one thousand Rupees, or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

Subordinate Magistrates or Officers authorized to exercise any of the powers of a Magistrate—

1st Class. Imprisonment of either description not exceeding six months, or fine not exceeding two hundred Rupees, or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

2nd Class. Imprisonment of either description not exceeding one month, or fine not exceeding fifty Rupees, or both imprisonment and fine in all cases in which both imprisonments are authorized by the Indian Penal Code.

No sentence of solitary confinement, under Section 73 of the Indian Penal Code, shall be passed by any Court inferior to an Officer exercising the powers of a Magistrate.

The Government may invest any person with powers of a Magistrate or of a Subordinate Magistrate.

23. The Local Government may invest any person with the powers of a Magistrate or of a Subordinate Magistrate of the first or second class, as described in the last preceding Section, with a view to the exercise, by such person, of such powers under this Act or under any special or local law.

Courts to have jurisdiction over all persons not expressly exempted.

24. The Criminal Courts shall have jurisdiction over all persons, except such persons as, by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras, and Bombay, respectively, or by this Act or any other Act of the Governor-General of India in Council, are, or shall be, exempted from their jurisdiction.

No person exempted from Criminal Procedure by reason of birth or of descent. Proviso.

25. No person whatever shall, by reason of place of birth, or by reason of descent, be exempt from the rules of Criminal Procedure contained in this Act. Provided that nothing in this Section shall be held to authorize the trial or commitment for trial before any Criminal Court of any person who, in respect of the offence with which he is charged, is not subject to the jurisdiction of that Court.

Offence to be ordinarily tried in the jurisdiction where it is committed. Proviso.

26. Except where otherwise expressly provided by this Act, every offence shall be enquired into and determined in the District or division of a District in which the offence was committed. Provided that nothing in this Section shall exempt European British Subjects from being tried and convicted before the Supreme Courts of Judicature for offences committed beyond the local limits of such Courts.

May be tried in the jurisdiction where the act is done, or where

27. When a person shall be accused of the commission of any offence by reason of any thing which has been done, and of any consequnce which has ensued, such offence may be enquired into or determined in any District or division of

the consequence ensues.

a District in which any such thing shall have been done or any such consequence shall have ensued.

Abetment.

28. The abetment of an offence, wherever such abetment shall have taken place, may be enquired into or determined in any District or division of a District in which the offence abetted may be enquired into or determined by any Court which has jurisdiction to try such offence, as if the abetment had been committed at the same place at which the offence abetted was wholly or partly committed ; or the abetment may be enquired into or determined in any District or division of a District within which the abetter has done any thing for abetting the commission of such offence.

Offence committed on boundary.

29. When any offence shall be committed on the boundary or boundaries of two or more Districts, whether subject to the same local Government or not, or of two or more divisions of a District, or shall be begun in one District or division of a District and completed in another, whether such Districts be subject to the same local Government or not, every such offence may be enquired into or determined in any of such Districts or divisions of a District, in the same manner as if it had been actually and wholly committed therein.

Offence committed during journey, &c.

30. When any offence shall be committed on any person, or on, or in respect of, any property, in or upon any coach, cart or other carriage or conveyance, or upon any beast of burden employed in any journey, or shall be committed on any person, or on, or in respect of, any property on board any vessel employed in any voyage or journey upon any navigable river, canal, or inland navigation, such offence may be enquired into or determined in any District or division of a District, through any part whereof such coach, cart, carriage, conveyance, beast of burden, or vessel, shall have passed in the course of the journey or voyage during which such offence shall have been committed, in the same manner as if the offence had been actually and wholly committed in such District or division of a District ; and in all cases where the side, middle, or other part of any highway, or the side, bank, middle, or other part of any such river, canal, or navigation, shall constitute the boundary of any two Districts or divisions of a District, such offence may be enquired into or determined in either of such Districts or divisions of a District, through or adjoining to, or by the boundary of any part whereof such coach, cart, carriage, conveyance, beast of burden, or vessel, shall have passed in the course of the journey or voyage during which such offence shall have been committed, in the same manner as if it had actually and wholly been committed in such District or division of a District.

Receiving, &c., stolen property,

31. If any person be charged with any offence punishable under Section 411, 412, or 414 of the Indian Penal Code, under the head "Of the receiving of stolen property," such offence may be enquired into or determined in any District or division of a District in which such person shall have, or shall have had, such stolen property in his possession, or in any District or division of a District in which the offence by which such property came to be stolen property within the meaning of the said Code, may be enquired into or determind.

Being a thug, &c.

32. Whenever any person is charged with being a thug, or with murder as a thug, or with dacoity with or without murder, or with having belonged to a gang of dacoits, or with having belonged to any wandering or other gang of thieves associated for the purpose of habitually committing theft or robbery and not being a gang of thugs or dacoits, the offence may be enquired into any District in which the accused person is, by any Magistrate competent to commit to a Court of Session, and the accused person may be committed to the Court of Session to which such Magistrate is subordinate.

Escape from lawful custody under sentence.

33. If any person shall escape from any custody in which he is lawfully detained in pursuance of a sentence of a Court of Justice, or by virtue of a commutation of such sentence or shall be charged with any offence punishable under Section 227 of the Indian Penal Code or under Section XII of Act XXIV of 1855 (*relating to Penal Servitude*), the offence may be enquired in to or determined, either in the District or division of a District in which such person shall be apprehended and re-taken or the District or Division of a District in which he was formerly tried, or in the case of an escape from custody, in the District in which he shall have escaped from custody.

Sudder Court to decide when doubt arises as to the jurisdiction where an enquiry shall take place.

34. Whenever any doubt shall arise as to the District in which any offence should be enquired into or determined, it shall be lawful for the Sudder Court within whose jurisdiction the offender is apprehended, to decide in which District the offence shall be determined.

Sudder Court may transfer any case

35. It shall be competent to the Sudder Court to order the transfer of any Criminal case or appeal from a Criminal Court subordinate to its authority,

to any other such Criminal Court of equal or superior Jurisdiction, or to order that any offence shall be enquired into or determined in any District or division of a District, other than that in which the offence shall have been committed, whenever it shall appear to such Sudder Court that such order will promote the ends of justice, or tend to the general convenience of the parties or witnesses.

from one jurisdiction to another.

36. It shall be competent to the Magistrate of the District, or to a Magistrate in charge of a Division of a District, to withdraw any criminal case from any Court subordinate to such Magistrate within his District or division, and to try the case himself, or to refer it for trial to any other such Court competent to try the same.

Magistrate may withdraw any case from a subordinate Court, and try it himself, or refer it to any other such Court.

37. It shall be competent to the Magistrate of the District, or to any other Officer exercising the powers of a Magistrate, to hold the preliminary enquiry into any cases triable by a Supreme Court of Judicature, and to commit or hold to bail persons to take their trial before such Court, and to exercise all the powers necessary for such purpose.

Commitment for trial before the Supreme Court.

38. The local Government may empower any Subordinate Magistrate of the first or second class not vested with such power by any law for the time being in force, to hold the preliminary enquiry into cases triable by the Court of Session, or by any Supreme Court of Judicature, and may empower such Subordinate Magistrate to commit, or hold to bail, persons to take their trial before such Court of Session or Supreme Court, and to exercise all the powers necessary for such purpose.

Subordinate Magistrate may be empowered to prepare cases for trial before the Court of Session or Supreme Court.

39. No person who is not a Justice of the Peace shall commit, or hold to bail any European British Subject to take his trial before a Supreme Court of Judicature.

Only Justices of the Peace empowered to commit European British Subjects for trial.

40. When a European British Subject is charged with an offence triable by a Supreme Court of Judicature, any Magistrate may hear the complaint against such person, and may issue a warrant of arrest, or hold to bail such person with a view to the complaint being investigated by a Justice of the Peace.

Procedure when a European British Subject is charged with an offence triable by Supreme Court.

41. When a European British subject has been arrested under a warrant issued under the last preceding Section by a Magistrate not being a Justice of the Peace, if such Magistrate considers that there is sufficient ground for proceeding, he shall forthwith forward the person arrested to a Justice of the Peace, or if the offence with which such person is charged is bailable, shall, if sufficient bail be tendered, admit him to bail for his appearance before a Justice of the Peace. When the person accused is brought or appears before a Justice of the Peace, under this Section, such Justice of the Peace shall himself hold the preliminary enquiry into the case, before he commits, or holds to bail, such person for trial before the Supreme Court of Judicature.

Procedure when a European is arrested by an Officer not being a Justice of the Peace.

42. Nothing in this Chapter shall interfere with the jurisdiction given by the Statute 53 George III. c. 155, s. 105, or Act VII of 1853 *(to extend the jurisdiction of Magistrates under the 53 George III c. 1855, s. 105. in cases of assault, forcible entries, and other injuries accompanied by force not being felonies)*. Provided that the jurisdiction given by the said Statute and the said Act shall be exercised only by a Justice of the Peace.

Saving of jurisdiction given by 53 Geo. III. c. 155, s. 105.

Proviso.

CHAPTER III.

PRELIMINARY RULES.

43. In all Criminal Courts complainants and witnesses shall be examined upon oath or affirmation, or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses.

Complainants and witnesses to be examined according to law for time being in force.

44. In cases in which by the sentence or order of any Criminal Court a fine is imposed upon a conviction for any offence made punishable by fine, whether the offence be punishable or punished by fine only or otherwise, it shall be lawful for such Court to order that the fine or any part thereof not exceeding the loss appearing to be caused to the person who has suffered by such offence, and any special damage of a pecuniary nature that may have resulted to such person by such offence, and any expenses incurred by the complainant in the prosecution, as the Court may consider reasonable and proper, be paid to or for the benefit of such person according to the discretion of the Court, and in every such case the fine when levied or paid shall be paid and distributed accordingly. If the fine be awarded by a Court whose decision is subject to revision, the amount awarded

Court may apply portion of fine in compensation for loss or damage caused, &c.

to the person injured shall not be paid to such person until a period of two months shall have elapsed from the date of the award.

Imprisonment in default of payment of fine.

45. In every case punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Criminal Courts shall be guided by the provisions of Sections 64 and 65 of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine. Provided that in every such case decided by a Magistrate, the period of imprisonment awarded in default of payment of the fine shall, in no case, exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Proviso.

Sentence in cases of conviction of two or more offences.

46. When a person shall be convicted at one time of two or more offences punishable under the same or different Sections of the Indian Penal Code, it shall be lawful for the Court to sentence such person for the offences of which he shall have been convicted to the several penalties prescribed by the said Code which such Court is competent to inflict; such penalties, when consisting of imprisonment, to commence the one after the expiration of the other. It shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which such Court is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court. Provided that in no case shall the person be sentenced to imprisonment for a longer period than fourteen years; and provided also, that if the case be tried by a Magistrate, the punishment shall not in the aggregate exceed twice the extent of punishment which such Magistrate is by his ordinary jurisdiction competent to inflict.

Proviso.

Currency of sentence of escaped convicts.

47. When sentence shall be passed on an escaped convict for such escape or for any other offence, the Court may direct such sentence to take effect immediately, or after such escaped convict shall have suffered imprisonment or transportation, as the case may be, for a further period equal to that which remained unexpired of his former sentence at the time of his escape.

Judgment on offender already imprisoned under sentence for another crime.

48. When sentence shall be passed on a person already under sentence of imprisonment or transportation for another offence, the Court, if the sentence be for imprisonment, shall direct that such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person shall have been previously sentenced, or if such person shall be undergoing a sentence of imprisonment, and the sentence, on such subsequent conviction, be for transportation, the Court may direct that the sentence shall commence immediately or at the expiration of the imprisonment to which such person shall have been previously sentenced. Provided that nothing in this Section shall be held to excuse such person from any part of the punishment to which he is liable upon such former or subsequent conviction.

Proviso.

Local Government may order removal of a prisoner from one jail to another.

49. When any person is sentenced to imprisonment, it shall be lawful for the local Government to order the removal of such person during the period prescribed for his imprisonment from the jail or place in which he is confined to any other jail or place of imprisonment within the jurisdiction of the same local Government.

Place of transportation not to be specified in sentences.

50. When any person shall be sentenced to transportation, the Court passing the sentence shall not specify in its sentence the place to which such person shall be sent for the purpose of undergoing the sentence.

G. G. in C. to appoint a place or places.

Local Government to direct removal of persons sentenced to such place or places.

51. It shall be lawful for the Governor-General of India in Council from time to time to appoint a place or places within British India to which persons sentenced to transportation shall be sent: and the local Government, or some Officer duly authorized by such Government, shall give orders for the removal of such persons to the place or places so appointed.

Execution of sentences of transportation passed on persons already undergoing transportation under a previous sentence.

52. When sentence of transportation shall be passed on a person already undergoing transportation under a sentence previously passed for another offence, it shall not be necessary for the local Government to order the removal of such person from the place in which he is so undergoing transportation.

Sentence of death.

53. When any person shall be sentenced to death, the sentence shall direct that such person be hanged by the neck till he is dead.

The power of Government to remit penalties.

54. When any person has been sentenced to punishment for an offence, the Governor-General of India in Council, or the local Government, may, at any time, without conditions, or upon any conditions which such person shall accept, remit the whole or any part of the punishment to which he shall have been sentenced.

Party tried upon formal charge not liable to renewed prosecution.

Proviso.

55. A person who has once been tried for an offence and convicted or acquitted of such offence, shall not be liable to be tried again for the same offence. Provided that any person may be tried for the offence of culpable homicide and punished for that offence, notwithstanding he may have been tried and punished for the act which caused the death, if at the time of his conviction for the said act

death shall not have resulted, or shall not have been known by the Court which passed sentence to have resulted.

A person charged with criminal breach of trust may be found guilty of theft.

56. If upon the trial of any person charged with the offence of criminal breach of trust under Section 405 of the Indian Penal Code, or of criminal breach of trust as a carrier, wharfinger or warehouse-keeper under Section 407 of the said Code, it shall be proved that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the said offence under the said Section 378, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under the said Section 378.

A person charged with criminal breach of trust as a servant may be found guilty of theft, or of theft as a servant.

57. If upon the trial of any person charged with the offence of criminal breach of trust as a clerk or servant under Section 408 of the Indian Penal Code, it shall be proved that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, or the offence of theft as a clerk or servant of property in possession of his master under Section 381 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the said offence charged, but is guilty of the said offence under the said Section 378, or Section 381, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

A person charged with theft may be found guilty of misappropriation or breach of trust.

58. If upon the trial of any person charged with the offence of theft under Section 378 of the Indian Penal Code, or the offence of theft in a building, tent, or vessel under Section 380 of the said Code, it shall be proved that he took the property in question in any such manner as to amount to the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of criminal breach of trust under Section 405 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the said offence under the said Section 403, or Section 405, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

A person charged with theft as a servant may be found guilty of misappropriation.

59. If upon the trial of any person charged with the offence of theft as a clerk or servant of property in the possession of his Master, under Section 381 of the Indian Penal Code, it shall be proved that he took the property in question in any such manner as to amount to the offence of dishonest misappropriation of property under Section 403 of the said Code, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of such dishonest misappropriation under the said Section 404 the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under Section 405 of the said Code, or the offence of criminal breach of trust as a clerk or servant under Section 408 of the said Code, shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the offence under the said Section 403, Section 404, Section 405, or Section 408, as the case may be: and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

No person charged under the last four Sections, and found guilty, liable to be charged again.

60. No person charged and tried for an offence under any Section of the Indian Penal Code in the last four Sections of this Act mentioned, and found guilty of another offence under the provisions of any other of the said Sections of the Indian Penal Code, shall be liable to be afterwards prosecuted upon the same facts under the Section under which he was charged, or under the Section under which he was found guilty.

Levy of fines.

61. In every case in which an offender is sentenced to a fine, it shall be competent to the Court which sentences such offender, whether or not the offence be punishable with fine only, and whether or not the sentence direct that, in default of payment of the fine, the offender shall suffer imprisonment, to issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender which may be found within the jurisdiction of the Magistrate of the District.

Magistrate may issue orders to prevent obstructions, &c.

62. It shall be lawful for any Magistrate, by a written order, to direct any person to abstain from a certain act, or to take certain order with certain property in his possession, or under his management, whenever such Magistrate shall consider that such direction is likely to prevent, or tends to prevent, obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury, to any persons

lawfully employed, or is likely to prevent, or tends to prevent, danger to human life, health, or safety, or is likely to prevent, or tends to prevent, a riot or an affray.

Magistrate may prohibit the repetition or continuance of public nuisances.

63. Any Magistrate may enjoin any person not to repeat or continue a public nuisance.

CHAPTER IV.

OF THE SUMMONS.

Proceeding to compel appearance.

64. When an offence has been committed, or is supposed to have been committed, the proceeding, in order to compel the person known or suspected to have committed such offence to appear for the purpose of enquiry concerning the same. may be by summons or arrest.

Complaint.

65. A summons or a warrant of arrest may be obtained on a complaint as hereinafter provided.

Examination of complaint.

66. When, in order to the issuing of a summons or a warrant against any person for any offence, a complaint is made before the Magistrate of the District, or a Magistrate who is authorized to receive such complaint without reference from the Magistrate of the District, such Mag istrate shall examine the complainant. The examination shall be reduced into writing, and shall be signed by the complainant, and also by the Magistrate.

Magistrate how to proceed on complaint.

67. The Magistrate before whom such complaint is duly made shall, if it appear to him that there is sufficient ground for proceeding, issue his summons, or in cases in which a warrant may issue, his warrant, for causing the person accused to appear before himself or some other Magistrate having jurisdiction. If in the judgment of such Magistrate there be no sufficient ground for proceeding, he shall dismiss the complaint.

Magistrate may take cognizance of offences without complaint made.

68. Except as is otherwise provided in Chapter XI of this Act, the Magistrate of the District, or a Magistrate in charge of a division of a District, may, without any complaint, take cognizance of any offence which may come to his knowledge and may issue a summons, or in cases where a warrant may issue, a warrant of arrest against the person known or suspected to have committed such offence, in the same manner as if a complaint had been made against such person. The provisions of this Section shall not apply to the offences described in Chapters XIX, XX, and XXI of the Indian Penal Code.

Proviso.

Summons, what it is to contain, and how to be directed.

69. Every summons issued by a Magistrate to an accused person shall be in writing and shall be signed and sealed by such Magistrate, and shall be in the form (A) given in the Appendix or to the like effect.

Summons by whom to be served.

70. A summons shall ordinarily be issued through a Police Officer; but the Magistrate issuing the summons may, if immediate service be necessary and no Police Officer be immediately available, direct the summons to be served by any other person.

Summons how to be served.

71. The summons shall be served on the accused personally, or in case the accused person shall not be found, it may be left for him with some adult male member of his family residing with him.

Mode of service if accused cannot be found, &c.

72. When the accused person cannot be found, and there is no adult male member of his family on whom the service can be made, the serving Officer shall fix a copy of the summons on some conspicuous part of the house in which the accused person ordinarily resides.

Notwithstanding summons, warrant may issue in certain cases.

73. A Magistrate may (notwithstanding such summons), either before the appearance of the accused person as required by such summons, or after default made by him so to appear, issue a warrant of arrest against such person

Summons or warrant when grantable for an offence committed beyond local jurisdiction.

74. The Magistrate of the District or a Magistrate in charge of a division of a District, may issue a summons or warrant for the apprehension of any person within such District or division of a District in respect of any offence known or suspected to have been committed by such person in a different District or division of a District, or on the high seas, or in a foreign country, and for which, if committed within the jurisdiction of such Magistrate, he might issue a summons or warrant.

Provisions in this Chapter relating to a summons and its issue applicable to all summonses,

75. The provisions relating to a summons and its issue contained in this Chapter, shall be applicable to every summons issued under this Act.

CHAPTER V.

OF THE WARRANT AND ITS EXECUTION.

Form of warrant.

76. Every warrant issued by a Magistrate shall be in writing, and shall be signed and sealed by such Magistrate and shall be in the form (B) given in the Appendix, or to the like effect.

77. A warrant shall ordinarily be directed to a Police Officer, but the Magistrate issuing a warrant may, if immediate service be necessary and no Police Officer be immediately available direct the warrant to any other person.

Warrants to whom to be directed.

78. When a warrant is directed to a person other than a Police Officer, any other person may aid in executing such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

When directed to any person other than a Police Officer.

79. A warrant may be directed to several persons, and when so directed, may be executed by all, or by any one or more of such persons.

To several persons jointly.

80. A warrant directed to a Police Officer may also be executed by any other Police Officer whose name shall be endorsed upon the warrant by the Officer to whom the warrant is directed.

Police Officer may endorse warrant to another Officer.

81. The Magistrate by whom a warrant of arrest is issued, may attend personally for the purpose of seeing that the warrant is duly executed. The magistrate may also at any time direct the arrest in his presence of any person for whose arrest he is competent to issue a warrant.

Magistrate issuing a warrant may personally superintend its execution.

82. Every person is bound to assist a Magistrate or Police Officer demanding his aid in the prevention of a breach of the peace, or in the suppression of a riot or an affray, or in the taking of any other person whom such Magistrate or Police Officer is authorized to arrest.

All persons bound to assist in certain cases.

83. A warrant issued by a Magistrate shall ordinarily be executed (unless it be specially otherwise provided) within the jurisdiction of the Magistrate of the District in which it was issued.

Where a warrant of a Magistrate must be executed.

84. When any person against whom a warrant is issued by a Magistrate shall escape, go into, or be, in any place out of the jurisdiction of the Magistrate issuing such warrant, the warrant may be executed in such place; and if the person against whom the warrant is issued is arrested in such place, the Police Officer, or other person executing the warrant, shall carry him before the Magistrate of the District, or some other Magistrate within whose jurisdiction the arrest was made. If the offence with which the person arrested is charged be bailable, and such person shall be willing and ready to give bail for his appearance before the Magistrate by whom the warrant was issued, the Magistrate before whom such person is brought, shall take bail of such person for his appearance accordingly, and shall release him from custody, and forward the recognizance or other bail-bond to the Magistrate by whom the warrant was issued. If the offence be not bailable, or if the person arrested be unable to find bail, he shall be forwarded to the Magistrate by whom the warrant was issued. If the arrest be made within the local limits of the jurisdiction of a Supreme Court of Judicature, the person accused, when arrested, shall be taken before the Chief Commissioner of Police, or a Police Magistrate. Such Chief Commissioner or Police Magistrate shall forward the person arrested to the Magistrate by whom the warrant was issued, or if the offence with which the person arrested is charged be bailable, shall admit him to bail, and shall forward the recognizance or other bail-bond to such Magistrate.

Warrant executed in another jurisdiction.

If arrest be made within the jurisdiction of a Supreme Court.

85. If the place of arrest, under the last preceding Section, be within twenty miles from the place at which the warrant was issued, the person arrested may be carried, in the first instance, before the Magistrate who issued the warrant.

If arrest be made within 20 miles, person arrested may be carried before the Magistrate who issued the warrant.

86. It shall be competent to a Magistrate issuing a warrant for the arrest of a person out of his Jurisdiction, to direct the warrant to the Magistrate of the District in which such person is, or is supposed to be, and to transmit the same by post. On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name on such warrant, and enforce its execution in the same manner as if the warrant had been originally issued by himself. If the person named in the warrant be apprehended, he shall be carried before the Magistrate who endorsed the warrant, and shall be dealt with by such Magistrate as provided in Section 84 of this Act.

Warrant to be endorsed may be sent by post.

87. A warrant issued under the last preceding Section for execution within the local limits of a Supreme Court of Judicature, shall be directed to the Chief Commissioner of Police or to a Police Magistrate, who shall proceed in the manner provided in Section 84 of this Act.

Warrants for execution within limits of Supreme Court to be addressed to Chief Commissioner or Magistrate of Police.

88. On the arrest of a person for whose apprehension a warrant has been issued under the provisions of Section 74 of this Act, in respect of an offence known or suspected to have been committed in another District or division of a District, the Magistrate who issued the warrant shall, unless he is authorized to complete the enquiry himself, send the person arrested to the Magistrate within the limits of whose Jurisdiction the offence is known or suspected to have been

Magistrate how to proceed on arrest under his own warrant for an offence committed out of his jurisdiction.

committed, or take bail for appearance before such Magistrate, if the offence of which such person is suspected is bailable. When the Magistrate who issued the warrant cannot satisfy himself as to the Magistrate to whom the person arrested should be sent, the case shall be reported for the orders of the Sudder Court.

Subordinate Magistrate how to proceed in such cases.

89. If the arrest was made under a warrant issued under Section 74 of this Act by a Magistrate subordinate to the Magistrate of the District, such Magistrate shall send the person arrested to the Magistrate of the District, unless the Magistrate in whose Jurisdiction the offence is suspected to have been committed, shall issue his warrant for the arrest of such person, in which case the person arrested shall be delivered to the Police Officer or other person executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued. If the offence of which the person arrested is suspected, s all have been committed in the jurisdiction of another Subordinate Court of the same District, the Magistrate who issed the warrant under Section 74 of this Act, shall send the person arrested to the Magistrate in charge of the division in which the offence was committed.

Notification of substance of the warrant.

90. A Police Officer or other person executing a warrant of arrest shall notify the substance of the warrant to the person to be arrested, and, if required to do so, shall show the warrant to such person.

Warrant how to be executed.

91. In making an arrest, the Police Officer or other person executing the warrant shall actually touch or confine the body of the person to be arrested unless there be a submission to the custody by word or action.

Resisting an endeavour to arrest.

92. If a person against whom a warrant of arrest is issued, shall forcibly resist the endeavour to arrest him, it shall be lawful for the Police Officer or other person executing the warrant, to use all such means as may be necessary to effect the arrest.

Search of house entered into by person against whom warrant has been issued.

93. If there is reason to believe that any person, against whom a warrant has been issued, has entered into, or is within any house or place, it shall be the duty of any person residing in or in charge of such house or place, on demand of the Police Officer or other person executing the warrant, to allow such Police Officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

Breaking open outer door or window.

94. The Police Officer or other person authorized by warrant to arrest a person, may break open any outer or inner door or window of any house or place, whether that of the person accused, or of any other person, in order to execute such warrant, if, after notification of his authority and purpose, and demand of admittance duly made he cannot otherwise obtain admittance.

Breaking open a zenanah or female apartment.

95. If information be received that a person accused of any offence, for which a warrant may issue, is concealed in a zenanah or apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the Police Officer or other person employed to execute the warrant, shall take such precautions as may be necessary to prevent the escape of the accused person, and if the accused person shall not deliver himself up, the Police Officer or other person authorized to execute the warrant may, if after notification of his authority and purpose, and demand of admittance duly made he cannot otherwise obtain admittance, break open such zenanah or apartment, and execute the process intrusted to him; first giving notice to any woman as aforesaid in such zenanah or apartment, not being a person against whom a warrant has been issued, that she is at liberty to withdraw, and affording her every reasonable facility for withdrawing.

No unnecessary restraint.

96. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Party arrested to be forthwith taken before the Magistrate.

97. The Officer or other person executing the warrant shall, without unnecessary delay, bring the person arrested before the Magistrate before whom he is required by this Act to produce him.

No threat promise, or caution as to disclosure by party arrested.

98. No Police Officer or other person shall offer to the person arrested any inducement, by threat or promise or otherwise, to make any disclosure. But no Police Officer or other person shall prevent the person arrested, by any caution or otherwise, from making any disclosure which he may be disposed to make of his own free will

Provisions in this Chapter relating to a warrant and its issue applicable to all warrants.

99. The provisions relating to a warrant and it s issue contained in this Chapter, shall be applicable to every warrant issued under this Act.

CHAPTER VI.

OF ARREST WITHOUT WARRANT.

Police Officer may arrest without warrant in certain cases.

100. A Police Officer in the cases hereinafter mentioned may, without orders from a Magistrate and without a warrant, arrest—

First.—Any person who in the sight of such Police Officer shall commit an offence specified in Column 3 of the Schedule annexed to this Act, as an offence for which Police Officers may arrest without a warrant.

Secondly.—Any person against whom a reasonable complaint has been made, or a reasonable suspicion exists of his having been concerned in any such offence.

Thirdly.—Any person against whom a hue and cry has been raised of his having been concerned in any such offence.

Fourthly.—Any person who is a proclaimed offender.

Fifthly.—Any person who is found with stolen property in his possession.

Sixthly.—Any person who shall obstruct a Police Officer while in the execution of his duty.

Vagabonds.

101. An Officer in charge of a Police Station may, without orders from a Magistrate and without a warrant, arrest or cause to be arrested any person found lurking within the limits of such Station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, or any person who is a reputed robber, house-breaker, thief, receiver of stolen property knowing it to be stolen, or who is of notoriously bad livelihood.

Police may interfere to prevent offences.

102. It shall be the duty of every Police Officer to prevent, and he may interpose for the purpose of preventing, the commission of any offence specified in Column 3 of the Schedule annexed to this Act as an offence for which Police Officers may arrest without a warrant.

Information to be communicated.

103. It shall be the duty of a Police Officer who shall receive information of a design to commit any such offence, to communicate such information to the Police Officer to whom he is subordinate, and to any other Officer whom it may concern to prevent or take cognizance of the commission of any such offence.

May arrest to prevent offences.

104. A Police Officer, knowing of a design to commit any such offence as aforesaid, may arrest, without orders from a Magistrate and without a warrant, the person so designing, if the commission of the offence cannot be otherwise prevented.

Injury to public property.

105. A Police Officer may, of his own authority, interpose for the prevention of any injury attempted to be committed in his view to any public building, work of art, road, bridge, tank, well, or water-channel, or to prevent the removal or injury of any public land-mark or buoy, or other mark used for navigation.

Person in charge of house entered into by another of whom Police Officer is in search to allow ingress, &c.

106. If there is reason to believe that any person liable to arrest under this Chapter without a warrant, of whom a Police Officer is in search, has entered into or is within any house or place, it shall be the duty of the person residing in or in charge of such house or place, on the demand of such Police Officer, to allow ingress thereto, and all reasonable facilities for a search therein.

Procedure if ingress be not obtained.

107. If ingress to such house or place cannot be obtained under the last preceding Section, the Police officer authorized to make the arrest shall take such precautions as may be necessary to prevent the escape of the person to be arrested and send immediate information to a Magistrate. If no warrant can be obtained without affording such person, an opportunity of escape, and there is no person authorized to enter without a warrant on the spot, the Police Officer may make an entry into such house or place and search therein.

Person charged with an offence refusing to give his name and residence.

108. Any person who is known or suspected to have committed an offence for which a Police Officer is not authorized to arrest without a warrant, and who shall refuse on demand of a Police Officer to give his name and residence, or shall give a name or residence which there is reason to believe to be false, may be detained by such Police Officer for the purpose of ascertaining the name or residence of such person and with a view to future proceedings.

Party arrested to be forthwith taken before the proper authority.

109. A Police Officer having made an arrest under this Chapter, shall take or send the person arrested without unnecessary delay before the Magistrate who has jurisdiction in the case, or before the Officer in charge of a Police Station.

Arrest for an offence committed in the sight of a Magistrate.

110. When any offence is committed in the presence of a Magistrate, such Magistrate may order any person to arrest the offender, and may thereupon commit him to custody, or, if the offence is bailable, may admit him to bail.

Unlawful assembly to disperse on the order of a Magistrate, &c.

111. A Magistrate or Officer in charge of a Police Station may command an unlawful assembly to disperse, and it shall thereupon be the duty of the members of such unlawful assembly to disperse accordingly.

CHAPTER VII.

OF ESCAPE AND RE-TAKING.

Person arresting may re-take on escape and deal with the

112. If a person lawfully arrested under the provisions of this Act shall escape, or be rescued, it shall be lawful for the Police Officer or other person from whose custody the person so arrested shall have escaped, or have been rescued, to

party arrested as on original taking.

make fresh pursuit, and re-take him in any place, either within or without the jurisdiction where he was so in custody, and to deal with such person as such Police Officer or other person might have done on an original taking.

May adopt the same measures as on original taking.

113. In order to re-take any person, as provided in the last preceding Section, the Police Officer or other person making such fresh pursuit may adopt the same measures as he might have adopted on the original taking.

CHAPTER VIII.

OF SEARCH WARRANT.

When granted by a Magistrate.

114. When a Magistrate shall consider that the production of any thing is essential to the conduct of an enquiry into an offence known or suspected to have been committed, he may grant his warrant to search for such thing; and it shall be lawful for the Officer charged with the execution of such warrant to search for such thing in any house or place within the jurisdiction of such Magistrate. In such case the Magistrate may specify in his warrant the house or place, or part thereof, to which only the search shall extend.

Warrant how to be directed.

115. A search warrant shall ordinarily be directed to a Police Officer, but the Magistrate issuing the search warrant may, if immediate search is necessary, and no Police Officer be immediately available, direct the warrant to any other person.

Warrant to one Police Officer may be executed by another.

116. A search warrant directed to an Officer in charge of a Police Station may, if such Officer is not able to proceed in person, be executed by any Officer subordinate to such Officer. In such case the name of such subordinate Officer shall be endorsed upon the warrant by the Officer to whom the warrant is directed.

Warrant how to be executed out of jurisdiction of the Magistrate.

117. When it shall be necessary for a search warrant to be executed out of the Jurisdiction of the Magistrate issuing the warrant, the Magistrate within whose Jurisdiction the warrant is to be executed shall endorse his name on the warrant, which shall be sufficient authority for the Police Officer charged with the execution of such warrant to execute the same within the said Jurisdiction, or the search warrant may be directed to the Magistrate within whose Jurisdiction the search is to be made, and such Magistrate shall thereupon endorse his name on such warrant and enforce its execution in the same manner as if the warrant had been issued by himself.

Search warrants may be executed without endorsement in cases of emergency.

118. In any case in which there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate in whose District the warrant is to be executed, will prevent the discovery of the thing for which search is to be made, the Police Officer charged with the execution of the search warrant may execute the same in any place beyond the jurisdiction of the Magistrate by whom it was issued without the endorsement of the Magistrate in whose jurisdiction that place is situate. If the thing for which search is made is found in such place, it shall be immediately taken before the Magistrate in whose jurisdiction it is found, and who, unless there be good cause to the contrary, shall make an order authorizing it to be taken to the Magistrate who issued the warrant.

Procedure in such cases within local limits of the Supreme Court.

119. If the thing searched for be found within the local limits of a Supreme Court of Judicature it shall be taken to the Chief Commissioner of Police or to a Police Magistrate, who shall act in the manner prescribed in the last preceding Section.

Magistrate may when necessary issue search warrant to be executed in the jurisdiction of another Magistrate.

120. In any case in which it may appear necessary, a Magistrate may, by the warrant, order search to be made in a place out of his Jurisdiction, and may direct that the warrant be executed either after or without obtaining the endorsement of the Magistrate within whose Jurisdiction the search is to be made. When a Magistrate issues a warrant under this Section, he shall inform the Magistrate within whose Jurisdiction the house or place to be searched is situate, or if the house or place be situate within the local limits of any Supreme Court of Judicature, he shall inform the Chief Commissioner of Police of the issue of such warrant.

Magistrate may send his search warrant by post to the Magistrate of another District.

Procedure to be observed by such Magistrate.

121. It shall be competent to a Magistrate issuing a warrant for the search of any house or place out of the jurisdiction of the Magistrate of the District, to direct the warrant to the Magistrate of the District in which such house or place is situate, and to transmit the same by post. On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name on the warrant and enforce its execution in the same manner as if the warrant had been originally issued by himself. If the warrant is to be executed within the local limits of any Supreme Court of Judicature, it shall be addressed to the Chief Commissioner of Police or to a Police Magistrate. In such case any property found on search made, may be dealt with as provided in Sections 118 and 119 of this Act.

122. If the house or place to be searched is closed, it shall be the duty of any person residing in or in charge of such house or place, on demand of the Officer or other person executing the warrant,, to allow such Officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

Persons in charge of dwelling house, &c., to allow the search.

123. A Police Officer, or other person authorized by a warrant to search any house or place may break open any outer or inner door or window of the house or place, in order to execute such warrant, if after notification of his authority and purpose, and demand of admittance duly made he cannot otherwise obtain admittance.

Place to be searched may be broken open.

124. If the place ordered to be searched is a zenanah or apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the Officer or other person charged with the execution of the warrant shall give notice to such woman in such zenanah or apartment, not being a woman against whom a warrant of arrest has been issued, that she is at liberty to withdraw, and, after giving such notice and allowing a reasonable time for the woman to withdraw, and affording her every reasonable facility for withdrawing, such Officer or other person may enter such zenanah or apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of property.

Breaking open zenanah or female apartment.

125. The search of any house or place under this Chapter shall be made in the presence of two or more respectable inhabitants of the place in which the house or place searched is situate, but such persons shall not be required to attend the Court of the Magistrate as witnesses unless specially summoned by such Magistrate. The occupant of the house or place or some person in his behalf shall, in every instance, be permitted to attend during the search.

Search of house &c. to be made in the presence of witnesses.

Occupant of the place searched may attend.

126. In any case in which it shall be necessary to cause a female to be searched, the search shall be conducted with strict regard to the habits and customs of the country.

Mode of searching females.

127. If the Magistrate of the District or a Magistrate in charge of a division of a District, upon information and after such enquiry as he may think necessary, has reason to believe that any house or other place is used as a place for the deposit or sale of stolen property, or for the deposit or sale or manufacture of forged documents or counterfeit Government Stamps or counterfeit coin, or instruments or materials for counterfeiting coin, or for forging, or that any forged documents or counterfeit stamps or false seals or any counterfeit coin or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any house or other place, he may by his warrant authorize any Police Officer above the rank of a constable, peon or burkundaz to enter, with such assistance as may be required, and by force if necessary, any such house or other place, and to search all such parts of the same as shall be specified in the warrant, and to seize and take possession of any stolen property, documents, stamps, seals, or coins therein found which he may reasonably suspect to be forged, stolen, false, or counterfeit, and also of any such instruments and materials as aforesaid.

Search of house, &c., suspected to contain forged documents, &c.

128. The Magistrate by whom a search warrant is issued, may attend personally for the purpose of seeing that the warrant is duly executed. The Magistrate may also direct a search to be made in his presence of any house or place, for the search of which he is competent to issue a search warrant.

Magistrate may attend personally.

129. An Officer in charge of a Police Station may, without a warrant enter any shop or premises within the limits of such Station for the purpose of inspecting or searching for any weights or measures or instruments for weighing used or kept therein, whenever he shall have reason to believe that there are in such shop or premises any weights, measures, or instruments for weighing which are false. If such Police Officer shall find in such shop on premises any weights, measures, or instruments that are false, he may seize the same and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

Inspection of weights and measures used in shops.

130. The seizure by any Police Officer of property alleged or suspected to have been stolen, or of property seized by any Police Officer under circumstances which create suspicion of the committal of any offence, shall be forthwith reported to the Magistrate of the District, who shall thereupon make such order respecting the custody and production of the property as he shall think proper.

Procedure by Police Officer upon seizure of stolen property found on an offender.

131. When any such property shall be unclaimed, the Magistrate of the District may detain the same and shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may

Procedure if such property be unclaimed.

have a claim to the property to appear and establish his claim thereto within six months from the date of such proclamation.

Procedure if no claimant appear within six months from date of the proclamation.

132. If no person shall, within the period allowed, claim such property, and if the person in whose possession such property, was found shall be unable to show that it was legally acquired by him, the property shall be at the disposal of the Government, and may be sold under the orders of the Magistrate of the District.

CHAPTER IX.

PRELIMINARY ENQUIRY BY THE POLICE.

Police Officers to make enquiry into certain offences only when directed to do so by the Magistrate.

133. No Police Officer shall, without an express order from a Magistrate, enquire into or take cognizance of any offence punishable under the Indian Penal Code, other than the offences described in Column 3 of the Schedule annexed to this Act, as offences for which a Police Officer may arrest without warrant. But it shall be competent to a Magistrate, upon the report of a Police Officer or otherwise, to direct enquiry to be made by a Polico Officer into any offence punishable under the Innian Penal Code or under any special or local law.

Saving of powers vested in Police Officer by any special or local law.

134. Nothing in the last preceding Section shall be held to interfere with the exercise of any powers which are vested in a Police Officer by any special or local law, or with the performance of any duty which is imposed upon a Police Officer by any such special or local law.

Upon complaint preferred, Officer in charge of Police Station to proceed in person or to send a subordinate Officer to make enquiry.

135. Upon complaint or information being preferred to an Officer in charge of a Police Station of the commission within the limits of such Station of any of the offences specified in Column 3 of the Schedule annexed to this Act, as offences for which Police Officers may arrest without warrant he shall send immediate intimation to the Magistrate having jurisdiction, and shall proceed in person or shall depute one of his subordinate Officers to proceed to the spot to enquire into the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and apprehension of the offender. Any Magistrate, on receiving intimation of the commission of any such offence, may at once proceed, or depute an Officer exercising any of the powers of a Magistrate, to proceed to hold a preliminary enquiry into or otherwise to dispose of such case in the manner provided in this Act.

Except in cases not of a serious nature where local enquiry is not necessary.

136. Provided that when any complaint is made against any person by name and the case is not of a serious nature, it shall not be incumbent on the Officer in charge of a Police Station to proceed in person or to depute a subordinate Officer to make an enquiry on the spot, unless such local enquiry shall appear to be necessary.

If Officer in charge of Police Station see no sufficient ground for an enquiry.

137. If on any complaint or information being preferred to an Officer in charge of a Police Station, it shall appear to such Officer that there is no sufficient ground for entering on an enquiry, or that the immediate apprehension of the accused is not necessary for the ends of justice, he shall abstain from proceeding in the case and shall report the substance of the complaint or information for the orders of the Magistrate.

All persons to give information of offences.

138. It shall be the duty of every person who is aware of the commission of any offence made punishable under Sections 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, or 460, of the Indian Penal Code, to give information of the same to the nearest Police Officer, whenever he shall have reason to believe that, if such information be withheld, the person who committed the offence may not be brought to justice, or may have his escape facilitated.

Complaint, &c., to be in writing.

139. Every complaint or information preferred to an Officer in charge of a Police Station, shall be reduced into writing, and the substance thereof shall be entered in a diary to be kept by such Officer, in such form as shall be prescribed by the local Government.

Procedure, when any Police Officer deputes another.

140. When any Officer in charge of a Police Station requires any Officer, subordinate to him, to make without a warrant an arrest which may lawfully be made by such Officer without a warrant, he shall deliver to the Police Officer required to make such arrest, an order in writing, specifying the person to be arrested and the offence for which the arrest is to be made.

Police may pursue offenders into other jurisdictions.

141. It shall be lawful for a Police Officer to pursue, with a view to arrest, any person accused of any of the offences specified in Column 3 of the Schedule annexed to this Act, as offences for which Police Officers may arrest without a warrant, into the limits of another Police Officer, whether subordinate to the same Magistrate as himself, or the Magistrate of any other District, and whether such place be under the same local Government or not.

142. Whenever an Officer in charge of a Police Station shall consider that the production of any thing is essential to the conduct of an enquiry into any offence which he is authorized to investigate, it shall be lawful for him to search or cause a search to be made for the same, in any house or place within the limits of such Station. In such case, the Officer in charge of the Police Station shall, if practicable, conduct the search for such thing in person. If unable to conduct the search in person, and there is no other person competent to make the search present at the time, it shall be lawful for the Officer in charge of the Police Station to require any Officer subordinate to him to make the search, and he shall deliver to such Officer an order in writing, specifying the property for which search is to be made and the house or place to be searched, and it shall thereupon be lawful for such Subordinate Officer to search for such property in such house or place. The provisions of Sections 122, 123, 124, and 125 of this Act relating to seach warrants, shall be applicable to a search made by or under the direction of an Officer in charge of a Police Station under this Section.

Issue of search warrants by Officer in charge of Police Station.

143. An officer in charge of a Police Station may require an Officer in charge of another Police Station, whether subordinate to the same Magistrate as himself or to a Magistrate of another District, to cause a search to be made in any house or place in any case in which he might cause such search to be made within the limits of his own Station.

When one Officer of a Police Station may require another to issue a search warrant.

144. An Officer in charge of a Police Station may, by an order in writing, require the attendance before himself of any person being within the limits of his Station, who, from the statement of the complainant or otherwise, appears to be acquainted with the facts and circumstances of any case into which he is enquiring under Section 135 of this Act, and such person shall be bound to obey such requisition.

Witnesses to be summoned.

145. It shall be lawful for an Officer in charge of a Police Station or other Police Officer making an enquiry, to examine orally any person who is supposed to be acquainted with the facts and circumstances of the case. Nothing in this Section shall preclude such Police Officer from reducing into writing any statement made by the person so examined. Provided that any statement so reduced into writing shall not be signed by the person making it, nor shall it be treated as part of the record or used as evidence.

Oral examination of witnesses by Police.

Proviso.

146. No Police Officer or other person shall offer any inducement to an accused person by threat or promise or otherwise to make any disclosure or confession.

No inducement to be offered to an accused person to confess.

147. No Police Officer shall record any statement or any admission or confession of guilt, which may be made before him by a person accused of any offence. Provided that nothing in this Section shall preclude any Police Officer from reducing any such statement or admission or confession into writing for his own infromation or guidance.

Police not to record confessions.
Proviso.

148. No confession or admission of guilt made to a Police Officer, shall be used as evidence against a person accused of any offence.

Confession made to a Police Officer shall not be used as evidence.

149. No confession or admission of guilt made by any person whilst he is in the custody of a Police Officer, unless it be made in the immediate presence of a Magistrate, shall be used as evidence against such person.

Confession made while the accused is in custody of the Police shall not be used as evidence.

150. When any fact is deposed to by a Police Officer as discovered by him in consequence of information received from a person accused of any offence, so much of such information, whether it amounts to a confession or admission of guilt or not, as relates distinctly to the fact discovered by it may be received in evidence.

Police Officer may give in evidence so much of any statement or confession made by the accused as relates distinctly to a fact thereby discovered.

151. If the person arrested appears from the information obtained to have committed the offence charged, and the offence is not bailable, the Officer in charge of the Police Station shall forward him under custody to the Magistrate having jurisdiction in respect of the offence, and shall bind over the prosecutor and witnesses to appear on a fixed day before such Magistrate. When any Subordinate Police Officer has made any enquiry under this Chapter, he may be required by the officer in charge of the Police Station to submit a report of such enquiry to him, or may do so without such instructions, and the Officer in charge of the Police Station shall then proceed as if he had made the enquiry himself.

Enquiry by the Police.

152. No Police Officer shall, without the special order of a Magistrate, detain an accused person in custody for a longer period than, under all the

Accused not to be detained by the Police

beyond 24 hours without special authority.

circumstances of the case, is reasonable such period in no case to exceed twenty-four hours. If the enquiry has not been completed within twenty-four hours, the Officer in charge of the Police Station shall nevertheless, foward the accused to the Magistrate with a short despatch stating the offence for which the accused has been arrested, if there are grounds for believing that the accusation is well founded.

Police how to proceed in cases of deficient evidence.

153. If it shall appear to the Officer in charge of the Police Station that there is not sufficient evidence or reasonable ground of suspicion to justify the transmission of the accused person to the M gistrate, he shall release the accused on bail, or on his own recognizance, to appear when required and shall submit a report of the case for the orders of the Magistrate.

Daily record of proceedings.

154. Police Officer making an enquiry under this Chapter, shall day by day enter his proceedings in a diary setting forth the time at which the complaint or other information reached him, the time at which he began and closed his enquiry, the place or places visited by him, and a statement of the circumstances elicited by his enquiry, and shall forward day by day a copy of such diary to the District Superintendent of Police, who shall without delay bring to the notice of the Magistrate of the District any part of such diary which he shall consider it to be important that such Magistrate shall know. The Magistrate of the District shall be entitled to call for and inspect such diary. In cases where there is no District Superintendent of Police, the Police Officer shall forward day by day a copy of the diary to the Magistrate of the District. Such diary shall not be evidence of the facts stated therein, except against the Police Officer who made it.

Report of Police Officer of what to consist.

155. The enquiry shall be completed without unnecessary delay, and as soon as it is completed, the Policer Officer making the enquiry shall forward to the Magistrate a report in such form as shall be prescribed by the local Government, setting forth the names of the parties, the nature of the complaint, and the names of the witnesses, without any expression of opinion as to the guilt of the accused person, and shall also transmit any weapon or article which it may be necessary to produce before the Magistrate. The Police Officer shall state whether the accused person has been forwarded in custody, or has been released on bail or on his own recognizance. If the accused person be detained in custody, he shall state the fact and the cause of this detention.

Bail.

156. A person accused of any offence entered as not bailable in Column 5 of the Schedule annexed to this Act, shall not be admitted to bail, if there appear reasonable ground for believing that he has been guilty of the offence imputed to him. But a person accused of any other offence shall be admitted to bail, if sufficient bail be tendered for appearance before the Magistrate having jurisdiction in respect of the offence.

Bail not to be excessive. Terms of security.

157. The bail to be taken under the last preceding Section shall not be excessive; and the surety or sureties shall bind himself or themselves under a specific penalty to produce the accused person before the Magistrate on or before a fixed day, to answer the complaint.

Prosecutors and witnesses shall execute recognizances to appear before the Magistrate.

158. Every prosecutor and witness, whose attendance before the Magistrate may be deemed necessary by the Police Officer making the enquiry, shall execute a recognizance in the form (E) given in the Appendix, or to the like effect, for appearance before the Magistrate having jurisdiction in respect of the offence on a fixed day, which shall be the day whereon the accused person is to appear, if he shall have been admitted to bail, or the day on which he may be expected to arrive at the Court of the Magistrate if he is to be forwarded in custody. The Officer in whose presence the recognizance is executed, shall forward it with his report to the Magistrate, and shall deliver to the prosecutor and witnesses a duplicate of the despatch. The prosecutor or witnesses, unaccompanied by any Police Officer, shall be required to deliver in person such duplicate to the Magistrate.

Prosecutors and witnesses not to be subjected to any restraint.

159. A Police Officer shall not subject any prosecutor or witness to restraint or unnecessary inconvenience, nor require them to give any other security for their appearance than their own recognizances; but if any prosecutor or witness shall refuse to attend, or to execute the recognizance directed in the last preceding Section, it shall be competent to the Officer in charge of a Police Station to forward such prosecutor or witness under custody to the Magistrate, who may detain such prosecutor or witness in custody, until he shall execute such recognizance, or until the hearing before the Magistrate.

Recusant prosecutor or witness may be forwarded in custody.

Police to report all arrests.

160. Officers in charge of Police Stations shall report to the Magistrate of the District the cases of all persons apprehended within the limits of their respective Stations, whether such persons shall have been admitted to bail or otherwise; and no person who has been apprehended shall be discharged, except on bail, or on his own recognizance, or under the special order of a Magistrate.

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161. It shall be the duty of the Officer in charge of a Police Station, on receiving notice or information of the unnatural or sudden death of any person, immediately to give intimation to the nearest Magistrate, and to proceed to the place where the body of such deceased person is, and there in the presence of two or more respectable inhabitants of the neigbourhood, to make enquiry, and report the apparent cause of death, describing any mark of violence which may be found on the body, and stating in what manner or by what weapon or instrument such mark appears to have been inflicted. The report shall be signed by such Police Officer and other person, sor by so many of them as shall concur therein, and shall be forthwith forwarded to the Magistrate. When there may be any doubt regarding the cause of death, such Police Officer shall forward the body with a view to its being examined by the Civil surgeon, if the state of the weather and distance will admit of its being so forwarded without risk of putrefaction on the road. In the Presidencies of Madras and Bombay, it shall be the duty of the Head of the Village in like manner to make the enquiry and report as aforesaid.

Police to make immediate enquiry and report on sudden and unnatural deaths.

162. The powers to be exercised by an Officer in charge of a Police Station under this Chapter, shall be exercised in the event of his absence or illness by the Police Officer next in rank present at the Police Station, above the rank of a constable, peon, or burkundaz.

By whom the powers of the Officer in charge of Police Station may be exercised in his absence or illness.

CHAPTER X.

OF CONTEMPTS AND DISOBEDIENCE OF ORDERS.

163. When any such offence as is described in Section 175, 178, 179, 180 or 228, of the Indian Penal Code, is committed in the view or presence of any Civil, Criminal, or Revenue Court, it shall be competent to such Court to cause the offender, whether he be a European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day to take cognizance of the offence; and to adjudge the offender to punishment by fine not exceeding Two Hundred Rupees, or by imprisonment in the Civil Jail for a period not exceeding one month, unless such fine be sooner paid. In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence. If the Court, in any case, shall consider that a person accused of any offence above referred to should be imprisoned, or that a fine exceeding Two Hundred Rupees should be imposed upon him, such Court, after recording the fact constituting the contempt, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Justice of the Peace, and shall cause bail to be taken for the appearance of such accused person before such Magistrate or Justice of the Peace. or, if sufficient bail be not tendered, shall cause the accused person to be forwarded under custody to such Magistrate or Justice of the Peace. If the case be forwarded to a Magistrate, such Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Magistrate, and it shall be competent to such Magistrate to adjudge such offender to punishment, as provided in the Section of the Penal Code under which he is charged. If the case be forwarded to a Justice of the Peace such Justice of the Peace shall enquire into the circumstances and shall have the same powers of punishing the offender as are vested by the Statute 53 George III, c, 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature. In no case tried under this Section shall any Magistrate adjudge imprisonment or a fine exceeding Two Hundred Rupees for any contempt committed in his own presence against his own Court.

Procedure in certain cases of contempt.

164. When any person has been sentenced to punishment, or forwarded to a Magistrate or Justice of the Peace for trial, under the last preceding Section, for refusing or omitting to do anything which he was lawfully required to do, it shall be competent to the Court to discharge the offender, or to remit the punishment, on the submission of the offender to the order or requisition of such Court.

Discharge of an offender on his submission.

165. When any such offence as is described in Chapter X of the Indian Penal Code, except Sections 175, 178, 179 and 180, is committed in contempt of the lawful authority of any Civil, Criminal, or Revenue Court by a European British subject, such offence shall be cognizable only by a Magistrate who is a Justice of the Peace, and such Magistrate shall have the same powers of punishment for such offence as are vested by the Statute 53 George III. c. 155

Procedure, in all except certain cases, when the offender is a European British subject.

s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender on conviction in the same manner as is provided in that behalf in the said Statute. If such Magistrate shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature.

CHAPTER XI.

PROSECUTION IN CERTAIN CASES.

Prosecutions for certain offences not to be instituted, but under authority of Government or of an Officer duly empowered.

166. A charge of an offence punishable under Chapter VI of the Indian Penal Code, except Section 127, shall not be entertained by any Court, unless the prosecution be instituted by order of, or under authority from, the Governor General of India in Council, or the local Government, or some Officer empowered by the Governor-General in Council to order or authorize such prosecution, or unless instituted by the Advocate General.

Prosecution against Judges, &c.

167. A charge of an offence punishable under the Indian Penal Code, of which any Judge or any public servant not removeable from his office without the sanction of the Government, is accused as such Judge or public servant, shall not be entertained against such Judge or public servant, except with the sanction or under the direction of the local Government, or of some Officer empowered by the local Government, or of some Court, or other authority to which such Judge or public servant is subordinate, and whose power so to sanction or direct such prosecution the local Government shall not think fit to limit or reserve.

Prosecution for certain offences under Chapter X of the Penal Code not to be instituted, but with the sanction of the public servants concerned.

168. A charge of a contempt of the lawful authority of any Court or public servant, or of any other offence against a public servant as such, described in Chapter X of the Indian Penal Code, not falling within Section 163 of this Act, shall not be entertained in any Criminal Court, except with the sanction or on the complaint of the Court or public servant concerned, or, if such servant is an inferior ministerial servant, with the sanction or on the complaint of his official superior. The prohibition contained in this Section shall not apply to the offences described in Sections 189 and 190 of the Indian Penal Code.

Prosecution for certain offences against public justice not to be instituted but with sanction of the authority before which the offence was committed.

169. A charge of an offence against public justice, described in Sections 193 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, or 228, of the Indian Penal Code, when such offence is committed before or against a Civil or Criminal Court, shall not be entertained in the Criminal Courts, except with the sanction of the Civil or Criminal Court before or against which the offence was committed, or of some other Court to which such Court is subordinate. Such sanction may be given at any time.

Prosecution for certain offences relating to documents, not to be instituted but with the sanction of the Court in which such documents were given in evidence.

170. A charge of an offence relating to documents described in Sections 463, 471, 475, or 476, of the Indian Penal Code, when the document shall have been given in evidence in any proceedings in any Court, Civil or Criminal, shall not be entertained in any Criminal Court against a party to such proceedings, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate. Such sanction may be given at any time.

Mode of proceeding in cases mentioned in the last three preceding Sections.

171. When any Court, Civil or Criminal, is of opinion that there is sufficient ground for investigating any charge mentioned in the last three preceding Sections, the Court, after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having power to try or commit for trial the accused person for the offence charged, and such Magistrate shall thereupon proceed according to law, and the Court shall have power to send the accused person in custody, or to take sufficient bail for his appearance before such Magistrate, and may bind over any person to appear and give evidence on such investigation.

Power of Court of Session in respect of such offences committed before it.

172. It shall be competent to a Court of Session to charge a person for any such offence committed before or under its own cognizance if the offence be triable by the Court of Session exclusively, and to commit or hold to bail and to try such person upon its own charge. In such case the Court of Session shall have the same power of summoning and causing the attendance at the trial of any witnesses for the prosecution or for the defence which is vested in a Magistrate by this Act. Such Court may direct the Magistrate to cause the attendance of such witnesses on the trial.

Civil Courts empowered to complete investigation and commit accused to the Sessions.

173. In any case triable by the Court of Session exclusively, it shall be lawful for any Court of Civil Judicature before which any such offence was committed, instead of sending the case for investigation to a Magistrate, to complete the investigation itself, and to commit or hold to bail the accused person to take his trial before the Court of Session.

174. When any such commitment is made by order of a Civil Court, the Court shall frame a charge in the manner hereinafter provided, and shall transmit the same with the order of commitment and the record of the case to the Magistrate of the District, or other Officer exercising any of the powers of a Magistrate, and such Magistrate or other Officer as aforesaid shall bring the case before the Court of Session, together with the witnesses for the prosecution and defence.

Procedure by Civil Court in such cases.

175. Whenever any Court of Session or Civil Court shall commit or hold to bail any person for trial under the last three preceding Sections, such Court may also bind over any person to give evidence, and for that purpose may exercise all the powers of a Magistrate.

Court of Session or Civil Court may exercise all powers of Magistrate as to binding over persons to give evidence,

176. If any such offence, triable by the Court of Session exclusively, be committed before a Magistrate not empowered to commit for trial before a Court of Session, such Magistrate shall send the case to a Magistrate competent to make such commitment, who shall proceed to pass such order in the case as he may think proper.

Magistrate not empowered to commit, to send the case to Magistrate competent to do so.

177. A charge of an offence under Section 497 of the Indian Penal Code shall not be instituted except by the husband of the woman.

Prosecution for adultery not to be instituted except by the husband.

178. A charge of an offence under Section 498 of the Indian Penal Code, shall not be instituted, except by the husband of the woman or by the person having care of such woman on behalf of her husband.

Prosecution for enticing away a married woman not to be instituted except by husband or person in charge of the woman.

CHAPTER XII.

OF PRELIMINARY ENQUIRY BY THE MAGISTRATE IN CASES TRIABLE BY THE COURT OF SESSION.

179. When a complaint is made before a Magistrate that any person has committed, or is suspected to have committed, any of the offences specified in Column 7 of the Schedule annexed to this Act as triable exclusively by the Court of Session, or which in the opinion of such Magistrate ought to be tried by the Court of Session, it shall be lawful for such Magistrate to issue his warrant to apprehend such person. Provided that in any such case the Magistrate to whom such complaint is made may, if he shall think fit, instead of issuing in the first instance his warrant to apprehend the person so complained against, issue his summons requiring him to appear to answer to such complaint.

Magistrate may issue his warrant.

Or a summons in lieu of warrant.

180. If the Magistrate see cause to distrust the truth of the complaint, he may postpone the issuing of process for causing the attendance of the person complained against, and direct a previous enquiry to be made into the truth of the complaint, either by means of any Officer subordinate to such Magistrate, or of a local Police Officer, or in such other mode as he shall Judge most proper, for the purpose of ascertaining the truth or falsehood of the complaint. If such enquiry is made by means of some person other than an Officer exercising any of the powers of a Magistrate or a Police Officer, such person shall exercise all the powers vested by this Act in an Officer in charge of a Police Station, except, that he shall have no power to make an arrest. Nothing contained in this Section shall prevent the Magistrate from at once dismissing the complaint if in his judgment there be no sufficient ground for proceeding with it.

Postponement of issue of process.

May dismiss the complaint.

181. It shall be in the discretion of the Magistrate in issuing his warrant for the arrest of any person against whom a complaint has been made, to direct by endorsement on the warrant that, if such person be willing and ready to give bail in a sum to be fixed by the Magistrate for his appearance before the Magistrate, to be named in the warrant, on a specified day to answer the complaint, the Officer to whom the warrant is directed shall accept such bail, and shall release the person from custody. In the event of bail being given, the Officer shall forward the bail-bond to the Magistrate.

Magistrate may direct bail to be taken.

182. The Magistrate may, if he see sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by an agent duly authorized to act in his behalf. But it shall be in the discretion of the Magistrate, at any stage of the proceedings, to direct the personal attendance of the accused person.

Magistrate may dispense with the personal attendance of the accused.

183. If any person accused of an offence absconds or conceals himself, so that upon a warrant being issued against him he cannot be found, the Magistrate shall, if satisfied that such person absconds or conceals himself for the purpose of avoiding the service of the warrant, issue a written proclamation, requiring such person to appear to answer the complaint within a fixed period not less than thirty days. The proclamation shall be publicly read in some conspicuous place of the town or

Proclamation for an absconding party.

village in which such person usually resides, and shall be fixed on some conspicuous part of the ordinary place of abode of such person, or on some conspicuous place of such town or village. A copy of the proclamation shall also be fixed on some conspicuous part of the Court-house of the Magistrate.

Attachment of the property of the absconding party.

184. The Magistrate may, at the same time, order the attachment of any moveable or immoveable property belonging to the person absconding or concealing himself. Such order shall not authorize the attachment of any property out of the jurisdiction of the Magistrate by whom it is made, but it shall authorize the attachment of property in the jurisdiction of any Magistrate by whom such order is endorsed. The attachment under this Section shall, if the property ordered to be attached be land paying revenue to Government, be made through the Collector of the District in which the land is situate, and in all others cases by seizure under the order of the Magistrate or by the appointment of a manager and receiver, or by an order prohibiting the payment of rent to the absent person, as the Magistrate shall deem proper. If the absent person shall not appear within the time specified in the proclamation, the property under attachment shall be declared to be at the disposal of Government, but shall not be sold until the expiration of six calendar months, unless such property is of a perishable nature, or it shall be considerd by the Magistrate that the sale would be for the benefit of the owner.

Restoration of property declared to be forfeited.

185. When any person whose property shall have been declared to be at the disposal of Government under the last preceding Section shall, within two years after the attachment of the property, surrender himself, and shall upon trial before a competent Court, prove to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of evading Justice, such property, or if the same shall have been sold, the proceeds thereof, shall be restored to him.

Summons to a witness to attend and give evidence.

186. The Magistrate shall ascertain from the complainant, or otherwise, the names of any persons who may be acquainted with the facts and circumstances of the case, and who are likely to give evidence for the prosecution, and shall issue his summons to such persons, requiring them to appear at a time and place mentioned in the summons before such Magistrate to testify what they know concerning the complaint made against the accused person.

187. *Repealed by Act VIII 1869.*

In what cases warrant in the first instance.

188. If the Magistrate shall see reason to believe that such witness will not attend to give evidence without being compelled to do so, it shall be lawful for such Magistrate, instead of issuing a summons, to issue his warrant in the first instance.

If the warrant cannot be served.

189. If warrant cannot be served, and the Magistrate is satisfied that the witness absconds or conceals himself for the purpose of avoiding the service thereof, the Magistrate may issue a proclamation, requiring the attendance of such witness to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of his ordinary place of abode, and if such witness shall not attend at the time and place named in such proclamation, the Magistrate may order the attachment of any moveable property belonging to such witness to such amount as he shall deem reasonable, not being in excess of the amount of costs of attachment. and of any fine to which such witness may be liable under the provisions of the following Section. Such order shall not authorize the attachment of any property out of the jurisdiction of the Magistrate by whom it is made, but it shall authorize the attachment of the property in the jurisdiction of any Magistrate by whom such order is endorsed.

If witness on attachment appear and satisfy Magistrate, his property to be released from attachment.

If he do not appear or satisfy Magistrate, property to be sold.

190. If the witness shall appear and satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Magistrate shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as he shall deem fit. If such witness shall not appear, or appearing, shall fail to satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had not such notice of the proclamation as aforesaid, it shall be lawful for the Magistrate to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Magistrate may impose upon such witness under the provisions of Section 172 of the Indian Penal Code. If the witness shall pay to the Magistrate the costs and fine as aforesaid, the Magisrate shall order the property to released from attachment.

If he do not obey the summons, then warrant.

191. If any person summoned to give evidence, shall neglect or refuse to appear at the time and place appointed by the summons, and no just excuse shall be offered for such neglect or refusal, it shall be lawful for the Magistrate,

upon proof of the summons having been duly served, to issue, a warrant, under his hand and seal, to bring such person before him to testify as aforesaid.

Refusing to answer, may be committed to custody.

192. If any person summoned or brought before a Magistrate, shall refuse to answer such question as shall be put to him, without offering any just excuse for such refusal, the Magistrate may, by warrant, under his hand and seal, commit the person refusing, to custody for any term not exceeding seven days, unless he shall, in the meantime, consent to be examined and to answer, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of Section 163 of this Act.

Examination of complainant and witnesses for the prosecution.

193. The Magistrate shall take the evidence of the complainant, and of such persons as are stated to have any knowledge of the facts which form the subject-matter of the accusation and the attendant circumstances.

To be in the presence of the accused who may cross-examine.

194. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or of this Agent when his personal attendance is dispensed with, and he appears by Agent. The accused or his Agent shall be permitted to cross-examine the complainant and his witnesses.

Mode and language in which the evidence is to be recorded.

195. The evidence of each witness shall be taken down in writing in the language in ordinary use in the District in which the Court is held, by or in the presence and hearing and under the personal direction and superintendence of the Magistrate, and shall be signed by the Magistrate. When the evidence of a witness is given in English, the Magistrate may take it down in that language with his own hand, and an authenticated translation of the same in the language in ordinary use in the District in which the Court is held, shall form part of the record. In cases in which the evidence is not taken down in writing by the Magistrate, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Magistrate with his own hand, and shall be annexed to the record. If the Magistrate shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

Government may direct the evidence to be recorded in the vernacular of the Magistrate.

196. It shall be competent to the local Government to direct that in any District or part of a District to which this Act shall extend, or shall hereafter be extended under the provisions of Section 445 of this Act, the evidence of witnesses shall be taken down by the Magistrate with his own hand in the vernacular language of the Magistrate, unless the Magistrate be prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court. The evidence so taken down shall be signed by the Magistrate, and form part of the record. Provided that, if the vernacular language of the Magistrate be not English or the language in ordinary use in the District in which the Court is held, the Magistrate may be directed by the local Government to take down the evidence in the English language or in the language in ordinary use in the District in which the Court is held, instead of his own vernacular.

Proviso.

Government to decide what is the language in ordinary use in any District.

197. If any question shall arise as to what is the language in ordinary use in any District in which a Court is held, that question shall, for the purposes of this Act, be determined by the local Government.

Evidence how to be recorded.

198. The evidence shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative. It shall be in the discretion of the Magistrate to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing, or any person who is a prosecutor, or a person accused, or his Counsel or Agent, shall require it. When the evidence is completed, it shall be read over to the witnesses in the presence of the accused person if in attendance, or of his Agent when his personal attendance is dispensed with and he appears by Agent, and shall, if necessary, be corrected. If the witness shall deny the correctness of any part of the evidence when the same is read over to him, the Magistrate may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he may think necessary. If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his evidence as taken down to be interpreted to him in the language in which it was given, or in a language which he understands.

Memorandum to be attached to the evidence.

199. A memorandum to be signed by the Magistrate shall be attached to the evidence of each witness, and shall state that the evidence was read over to the witness in a language which he understood (naming the language), and if the fact is so, that the witness acknowledged such evidence to be correct. When the evi-

dence is not taken down by the Magistrate with his own hand, the memorandum shall further state that the evidence was taken down in the presence and hearing of the Magistrate, and under his personal direction and superintendence.

In what cases evidence to be interpreted to the accused or his Agent.

200. If the evidence is given in a language not understood by the accused person, it shall be interpreted to him in open Court, in a language understood by him, in all cases where the accused is present in person. If the accused person appears by Agent, and the evidence is given in a language other than the language in ordinary use in the District in which the Court is held, it shall be interpreted to such Agent in that language.

Power of Magistrate at any stage to summon and examine.

201. It shall be in the discretion of the Magistrate at any stage of the proceedings to summon and examine any person, whose evidence he may consider essential to the enquiry.

Examination of defendant.

202. It shall be in the discretion of the Magistrate, from time to time, at any stage of the enquiry, to examine the accused person, and to put such questions to him as he may consider necessary. It shall be in the option of the accused person to answer such questions.

No influence to be used to induce disclosures.

203. No influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge; but if the accused person shall, of his own accord, propose to confess the commission by him of the offence of which he is accused, the Magistrate shall require him to give an account of the facts and circumstances in detail, and shall examine him thereupon in the same manner as if he were a witness.

Magistrate how to proceed in case of confession.

Accused persons not to be sworn.

204. No oath or affirmation shall be administered to the accused person.

Examination of the accused how to be recorded.

205. The examination of the accused person, including every question put to him and every answer give by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers; and when the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

Any person in attendance may be detained for any offence committed by him.

206. Any person attending the Court of the Magistrate, although not upon an arrest or summons on a charge made, may be detained by the Magistrate for the purpose of examination, for any offence which from the evidence he may appear to have committed, and may be proceeded against as though he had been arrested or summoned on a charge made.

Discretion to the Magistrate to take evidence for the defence.

207. It shall be at the discretion of the Magistrate to summon any witness who may be offered in behalf of the accused person to answer or disprove the evidence against him.

Witnesses for the defence.

208. The provisions of Sections 187, 188, 189, 190, 191, and 192 of this Act, shall be applicable to witnesses named in support of the defence.

Magistrate may tender a pardon in certain cases.

209. It shall be lawful for the Magistrate of the District or other Officer exercising the powers of a Magistrate, recording his reason for so doing, to tender a pardon to any one or more of the persons supposed to have been directly or indirectly concerned in or privy to any offence specified in Column 7 of the Schedule annexed to this Act as triable by the Court of Session, on condition of his or their making a full, true, and fair disclosure of the whole of the circumstances within his or their knowledge relative to the crime committed, and every other person concerned in the perpetration thereof. If any person shall accept a tender of pardon under this Section, he shall be examined as a witness in the case under the rules applicable to the examination of witnesses. Such person, if not on bail, may, if the Magistrate or other Officer as aforesaid shall think proper, be detained in custody pending the termination of the trial.

When Sudder Court or Court of Session may direct a tender of pardon.

210. It shall be competent to a Court of Session at the time of trial, and also to the Sudder Court as a Court of reference in cases tried with the aid of Assessors, to instruct the Magistrate in like manner to tender a pardon to one or more persons supposed to have been directly or indirectly concerned in or privy to any such offence, with the view of obtaining his or their evidence on the trial.

When Sudder Court or Court of Session may direct the commitment of a person to whom a pardon may have been tendered.

211. If it shall appear to a Court of Session at the time of trial, or to the Sudder Court as a Court of reference, that any person who shall have accepted an offer of pardon, has not conformed to the conditions under which the pardon was tendered, either by lawfully concealing any thing essential, or by giving false evidence or information, it shall be competent to such Court to direct the commitment of such person for trial for the offence in respect of which the pardon was tendered.

Bail not to be taken for certain offences.

212. When any person shall appear or be brought before a Magistrate accused of any offence entered as not bailable in Column 5 of the Schedule

annexed to this Act, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the crime imputed to him; but if the evidence given in support of the accusation shall, in the opinion of the Magistrate, not be such as to raise a strong presumption of the guilt of the accused person and to require his committal, or such evidence shall be adduced on behalf of the accused person as shall, in the opinion of the Magistrate, weaken the presumption of his guilt, but there shall appear to the Magistrate in either of such cases to be sufficient ground for further enquiry into his guilt, the accused person shall be admitted to bail pending such enquiry.

When may be taken.

213. When any person shall appear or be brought before a Magistrate accused of any of the offences specified in Column 5 of the Schedule annexed to this Act, as bailable, he shall be admitted to bail.

When bail shall be taken.

214. When a Magistrate shall admit to bail any person accused or suspected of any offence, a recognizance in such sum of money as the Magistrate may think sufficient, shall be entered into by the person so accused and one or more sureties, conditioned that such person shall attend during the preliminary enquiry, and if required, shall appear when called upon at the Court of Session to answer the charge.

Recognizance of accused and his sureties.

215. If through mistake or fraud insufficient bail has been taken, or, if the sureties become afterwards insufficient, the accused person may be ordered by the Magistrate to find sufficient sureties, and in default, may be committed to prison.

Insufficient bail.

216. If the accused person cannot find sureties when called upon, he shall be admitted to bail upon finding the same at any time afterwards before conviction.

Bail may be taken at any time before conviction.

217. After the recognizance shall have been duly entered into, the Magistrate, in cases the accused person shall have appeared voluntarily, or shall be in the custody of some Officer, shall thereupon discharge him; and in case he shall be in some prison or other place of confinement, shall issue a warrant of discharge to the jailor or other person having him in his custody, and such jailor or other person shall thereupon liberate him.

Discharge on bail.

218. The sureties for an accused person may, at any time, apply to the Magistrate to be discharged from their engagements. On such an application being made, the Magistrate shall issue his warrant, directing that such person be brought before him. On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and in default, may order him to be committed to prison.

Discharge of sureties.

219. Whenever by reason of default of appearance of the person executing the personal recognizance, the Magistrate shall be of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, he shall proceed to enforce the penalty by the attachment and sale of the moveable property belonging to such person, which may be found within the jurisdiction of the Magistrate of the District.

Proceedings to compel payment of penalty by the accused.

220. Whenever by reason of default of appearance by the person bailed, the Magistrate shall be of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, he shall give notice to the surety or sureties to pay the same, or to show cause why it should not be paid; and, if no sufficient cause be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties by the attachment and sale of any moveable property belonging to such surety or sureties which may be found within the jurisdiction of the Magistrate of the District, and if the penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Magistrate, in the Civil jail, during a period not exceeding six months.

Proceedings to compel payment of penalty by the sureties.

221. The powers given by the last two preceding Sections may be exercised by every Criminal Court in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such party or witness before such Court according to the conditions of such recognizance or bail.

In what cases the powers given by the last two Sections may be exercised.

222. Every warrant for the commitment of a person to custody shall be directed to some jailor, or other Officer or person having authority to receive and keep prisoners, and shall be in the form (C) given in the Appendix, or to the like effect.

The warrant of commitment how to be directed, &c.

223. The warrant of commitment shall be lodged with the jailor, if he be in jail; and if he be not in the jail, with his deputy. If the jailor has no deputy, the warrant may be lodged with any officer of the jail then being in the jail.

With whom to be lodged.

224. If from the absence of a witness or from any other reasonable cause, it shall become necessary or advisable to defer the examination, or further examination, of witnesses, it shall be lawful for the Magistrate by a written order, from

Magistrate may adjourn the enquiry, when.

time to time, to adjourn the enquiry, and to remand the accused person for such time as shall be deemed reasonable, not exceeding fifteen days ; provided that, instead of detaining the accused person in custody during the period for which he shall be so remanded, the Magistrate may discharge him, upon his entering into a recognizance, with or without a surety or sureties, at the discretion of such Magistrate, conditioned for his appearance before the Magistrate at the time and place appointed for the continuance of such examination.

Accused, when to be discharged.

225. When a Magistrate finds that there are not sufficient grounds for committing the accused person to take his trial before the Court of Session or for remanding him, he shall discharge him, unless it shall appear to the Magistrate that such person should be put on his trial before himself, in which case he shall proceed under Chapter XIV of this Act.

When defendant to be committed for trial.

226. When evidence has been given before a Magistrate which appears to be sufficient for the conviction of the accused person of an offence which is triable exclusively by the Court of Session, or which, in the opinion of the Magistrate, is one that ought to be tried by the Court of Session, the accused person shall be sent for trial by the Magistrate before the Court of Session. If the Magistrate is a Justice of the Peace and the accused person is a European British Subject, he shall be sent for trial before the Supreme Court of Judicature.

Copy of charge to be furnished to accused person.

Witnesses for the defence on the trial.

227. As soon as the charge on which the accused person is to be tried, has been prepared as hereinafter directed, it shall be read to him, and a copy or translation of it shall be furnished to him, if he require it. The accused person shall be required at once to give in orally or in writing, a list of witnesses whom he may wish to be summoned to give evidence on his trial before the Court of Session or Supreme Court. It shall be in the discretion of the Magistrate to allow the accused person to give in any further list of witnesses at a subsequent time. The Magistrate shall receive the list, and summon the witnesses to appear before the Court before which the accused person is to be tried. The provisions of Sections 187, 188, 189, 190, 191, and 192, so far as they relate to the attendance of witnesses, shall be applicable to witnesses named by the accused person in the list above mentioned.

Magistrate may refuse to summon any unnecessary witness, unless deposit be made to defray his expenses.

228. If the Magistrate shall be of opinion that any witness is included in the list for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness is material, and if the Magistrate be not so satisfied, he shall not be bound to summon the witness, unless such a sum shall be deposited with the Magistrate as he shall consider necessary to defray the expense of obtaining the attendance of the witness.

The record to be forwarded to the Superior Court.

229. When a commitment is made to the Court of Session, the record of the Magistrate shall be forwarded to such Court, together with any weapon or other article of property connected with the case. When a commitment is made to the Supreme Court of Judicature, such record and such weapon or other article shall be forwarded to the Clerk of the Crown, and if any part of such record shall not be in the English language, a translation thereof in the English language shall be forwarded therewith.

Copies of depositions to be given to accused.

230. When the preliminary enquiry is concluded, the accused person shall, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions, which shall be made at his expense.

When commitment is made, the Magistrate to give notice to the Government Pleader, &c.

231. When the accused person is committed to take his trial before the Court of Session, the Magistarte shall issue an order to the Government Pleader or other Officer appointed by the Government to conduct prosecutions before the Court of Session, notifying such commitment, and stating the offence in the same form as the charge. Nothing in this Section shall preclude the Magistrate, if he shall think fit, from appointing a person other than such Government Pleader or Officer to conduct the prosecution.

Recognizances of prosecutors and witnesses.

232. Prosecutors and witnesses for the prosecution, whose attendance may be necessary before the Court of Session, shall execute before the Magistrate recognizances in the Form (E) given in the appendix, or to the like effect; to be in attendance when called upon at the Court of Session, to prosecute or to give evidence as the case may be. If any prosecutor or witness shall refuse to attend before the Court of Session or to execute the recognizance above directed, it shall be competent to the Magistrate to detain such prosecutor or witness in custody, until he shall execute such recognizance, or until the time when his attendance at the Court of Session is required, when the Magistrate shall forward such prosecutor or witness under custody to the Court of Session.

CHAPTER XIII.

OF THE CHARGE.

What the charge is to contain.

233. When the Magistrate has determined to send the accused person before the Court of Session for trial, he shall make a written instrument under his hand and seal, declaring with what offence the accused person is charged, and shall direct the accused person to be tried by such Court on such charge. A copy of this instrument shall be forwarded with the record of preliminary enquiry to the Court of Session before which the accused person is to be tried, and a copy shall also be sent to the Public Prosecutor or to the Officer appointed to conduct the prosecution.

How the offence is to be described.

234. The charge shall describe the impute offence as nearly as possible in the language of the Indian Penal Code, and shall refer to the Section under which such offence is punishable.

Absence of General Exceptions under the Penal Code to be assumed.

235. It shall not be necessary to allege in the charge any circumstances for the purpose of showing that the case does not come, nor shall it be necessary to allege that the case does not come within any of the General Exceptions contained in Chapter IV of the Indian Penal Code, but every charge shall be understood to assume the absence of all such circumstances.

Evidence as to General Exception.

236. It shall not be necessary at the trial, on the part of the prosecutor, to prove the absence of such circumstances in the first instance; but the accused person shall be entitled to give evidence of the existence of any such circumstances, and evidence in disproof thereof may then be given on the part of the prosecutor.

Special ground of exception from absence of circumstances not to be assumed.

237. When the Section referred to in the charge contains an exception not being one of such General Exceptions, the charge shall not be understood to assume the absence of circumstances constituting such exception so contained in the Section, without a distinct denial of the existence of such circumstances.

Charge may contain one or more heads.

238. The charge may contain one or more heads.

Heads of charge.

239. When a charge contains one head only, the form shall be as follows, or to the same effect:

(a.) I, A [*name and Office of Magistrate &c.,*] declare that there is hereby made against Z the charge—

(b.) That he, on or about the day of at , waged war against the Queen, and that he has thereby committed an offence punishable under Section 121 of the Indian Penal Code, (c) and within the cognizance of the Court of Session.

(d.) And I hereby direct that Z be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*]

To be substituted for *(b)*.

(2.) That he, on or about the day of at , with the intention of inducing the Honorable A. B., a Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code, and within the cognizance of the Court of Session.

(3.) That he, being a public servant in the Department, directly accepted from [*state the name*] for another party [*state the name*] a gratification, other than legal remuneration, as a motive for his, the said Z's, forbearing to do an official act, and that he has thereby committed an offence punishable under Section 161 of the Indian Penal Code, and within the cognizance of the Court of Session.

(4.) That he, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of , and that he has thereby committed an offence punishable under Section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

(5.) That he, on or about the day of at , abetted the commission of suicide by A. B., a person in a state of intoxication, and that he has thereby committed an offence punishable under Section 306 of the Indian Penal Code, and within the cognizance of the Court of Session.

(6.) That he, on or about the day of at , voluntarily caused grievous hurt to and that he has thereby committed an offence punishable under Section 325 of the Indian Penal Code, and within the cognizance of the Court of Session.

(7.) That he, on or about the day of at , committed robbery, and that he has thereby committed an offence punishable under Section 392 of the Indian Penal Code, and within the cognizance of the Court of Session.

(8.) That he, on or about the day of at , committed dacoity, and that he has thereby committed an offence punishable under Section 395 of the Indian Penal Code, and within the cognizance of the Court of Session.

And the same form shall be followed, as nearly as may be, in charges with one head only, under other Sections of the Indian Penal Code.

Charges in cases falling within two or more Sections of the Penal Code.

240. When it appears to the Magistrate that the facts which can be established in evidence show a case falling within two or more Sections of the Indian Penal Code, the charge shall contain two or more heads, each of which shall be applicable to one of such Sections.

Two or more offences punishable under the same Section.

241. When it appears to the Magistrate that the facts which can be established in evidence show the commission of two or more offences falling within the same Section of the Indian Penal Code, the charge shall contain two or more heads charging such offences respectively.

Cases of doubt as to the Section which is applicable, or the offence which may be proved.

242. When it appears to the Magistrate that the facts which can be established in evidence show a case falling within some one of two or more Sections of the Indian Penal Code, but it is doubtful which of such Sections will be applicable, or show the commission of one of two or more offences falling within the same Section of the said Code, but it is doubtful which of such offences will be proved, the charge shall contain two or more heads, framed respectively under each of such Sections, or charging respectively each of such offences accordingly.

Forms of charge of more than one head.

243. When a charge contains more heads than one, the form shall be as follows, or to the same effect :—

I. A [*name and office of Magistrate or other Officer as aforesaid, &c.*,] declare that there is hereby made against Z the charge :

First :—That he, on or about the day of at , knowing a coin to be counterfeit, delivered the same to another person, by name A. B., as genuine, and that he has thereby committed an offence punishable under Section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly :—That he, on or about the day of at , knowing a coin to be counterfeit, attempted to induce another person by name A. B. to receive it as genuine, and that he has thereby committed an offence punishable under Section 242 of the Indian Penal Code, and within the cognizance of the Court of Session.

And I hereby direct that Z be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*)

First :—That he, on or about the day of at , committed murder by causing the death of , and that he has thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of the Court of Sessions.

Secondly :—That he, on or about the day of at , by causing the death of , committed culpable homicide, and that he has thereby committed an offence punishable under Section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

First:—That he, on or about the day of at , committed theft, and that he has thereby committed an offence punishable under Section 379 of the Indian Penal Code, and within the cognizance of the Court of Session.

Secondly :—That he, on or about the day of at , committed theft, having made preparation for causing death to a person in order to the committing of such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Thirdly :—That he, on or about the day of at , committed theft, having made preparation for causing restraint to a person in order to the effecting of his escape after the committing of such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

Fourthly :—That he, on or about the day of at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

And the same form shall be followed, as nearly as may be, in charges with more heads than one, under other Sections of the Indian Penal Code.

Amendment of charge.

244. It shall be competent to any Court before which a trial is held, at any stage of the trial, to amend or alter the charge.

When the trial may be proceeded with forthwith after amendment.

245. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making the amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.

246. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the amended or altered charge; and after hearing his defence, may further adjourn the trial, to admit of the appearance of any witness, whose evidence the Court may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

When a new trial may be ordered, or trial suspended.

247. In all cases of amendment or alteration of a charge, the accused person shall be allowed to recall and examine any witness who may have been examined.

Defendant may recall and examine witness already examined.

CHAPTER XIV.

OF CASES TRIABLE BY THE MAGISTRATE IN WHICH A WARRANT ON COMPLAINT MAY ISSUE.

248. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected to have committed, any offence triable by such Magistrate, and punishable under the Indian Penal Code with imprisonment for a period exceeding six months, it shall be lawful for such Magistrate to issue his warrant to apprehend such person. Provided that in any such case the Magistrate, to whom such complaint shall be made, may for any sufficient reason, instead of issuing his warrant in the first instance, issue his summons, requiring the person complained against to appear to answer to such complaint.

Cases in wich Magistrate may issue a warrant.

Summons in lieu of warrant.

294. The provisions of Chapter XII relating to the issuing of process for causing the attendance of the accused person, the taking of bail, the summoning and enforcing the attendance of witnesses, the examination of parties and witnesses, the mode of recording evidence, correction, attestation, and interpretation thereof, and the adjournment of a case, shall be applicable to cases tried under this Chapter. On completing the examination of a witness under this Section, the Magistrate, in addition to the memorandum required by Chapter XII, shall record such remarks as he may think material respecting the demeanor of any witness while under examination.

Issue of process &c.

250. When the evidence of the complainant and of the witnesses for the prosecution, and such examination of the accused person as the Magistrate shall consider necessary, have been taken, the Magistrate, if he find that no offence has been proved against the accused person, shall discharge him. If the Magistrate find that an offence is apparently proved against the accused person which falls within the definition in a certain Section of the Indian Penal Code, or within one or other of the definitions in several Sections of the said Code, he shall prepare in writing a charge against the accused person in the manner prescribed in Chapter XIII of this Act, all the provisions of which shall be applicable to charges prepared under this Section. In charges prepared under this Section the words "within my cognizance" shall be substituted for the words "within the cognizance of the Court of Session" at the end of the charge, and the words "by the said Court" omitted in the order.

Charge.

251. The charge shall then be read to the accused person, and he shall be asked whether he is guilty or has any defence to make.

Plea.

252. If the accused person have any defence to make to the charge, he shall be called upon to enter upon the same, and to produce his witnesses if in attendance, and shall be allowed to recall and cross-examine the witnesses for the prosecution.

Plea of claim to be tried.

253. The Magistrate shall summon any witness and examine any evidence that may be offered in behalf of the accused person, to answer or disprove the evidence against him, and may, for this purpose, at his discretion, adjourn the trial from time to time, as may be necessary.

Evidence for the defence.

254. The provisions of Sections 187, 188, 189, 190, 191, and 192 of this Act shall be applicable to witnesses named in support of the defence.

Witnesses for the defence.

255. If the Magistrate shall find the accused person not guilty, he shall record judgment of acquittal. If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

Acquittal or conviction.

956. In any trial before a Magistrate, in which it may appear at any stage of the proceedings that from any cause the case is one which the Magistrate is not competent to try, or which, in the opinion of such Magistrate ought to be tried by the Court of Session, the Magistrate shall stop further proceedings under this Chapter, and shall proceed in accordance with Chapter XII of this Act for conducting the preliminary enquiry in cases triable by the Court of Session.

Magistrate how to proceed if, after trial commenced, he finds the case beyond his jurisdiction.

CHAPTER XV.

OF CASES TRIABLE BY THE MAGISTRATE IN WHICH A SUMMONS ON COMPLAINT SHALL ORDINARILY ISSUE.

Summons shall issue.

257. Whenever a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed or is suspected to have committed any offence triable by such Magistrate, and punishable under the Indian Penal Code with imprisonment for a period not exceeding six months, it shall be lawful for such Magistrate to issue his summons directed to such person, stating shortly the matter of such complaint, and requiring him to appear at a certain time and place before such Magistrate to answer to the complaint. Provided that, if the Magistrate shall be satisfied or have reason to believe that the accused person is about to abscond, he may, instead of issuing a summons, issue his warrant in the first instance for the arrest of such accused person.

When warrant may issue.

Defendant may be admitted to bail or to be at large upon personal recognizance.

258. If upon the day appointed, the accused person shall appear voluntarily in obedience to the summons in that behalf served upon him, or shall be brought before the Magistrate by virtue of a warrant, it shall be at the discretion of the Magistrate to admit the accused person to bail, or allow him to be at large upon his personal recognizance, as the Magistrate may direct. If the accused person cannot give bail when required to do so, he shall be committed to custody.

Non-appearance of complainant.

259. If upon the day appointed for the appearance of the accused person, or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint; unless for some reason he shall think proper to adjourn the hearing of the same to some other day, upon such terms as he shall think fit.

If summons be not obeyed, then warrant.

260. If the person served with a summons shall not appear before the Magistrate at the time mentioned in such summons, and the Magistrate shall be satisfied that such summons was duly served in what shall be deemed by the Magistrate to be a reasonable time before the time therein appointed for appearing to the same, or if it shall appear to the Magistrate that after due diligence the summons could not be served according to the provisions of this Act, the Magistrate may issue his warrant to apprehend the accused person.

Magistrate may dispense with personal attendance of accused.

261. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person complained against, and permit him to appear by an Agent duly authorized to act in his behalf. Provided that it shall be at the discretion of the Magistrate at any stage of the proceedings to direct the personal attendance of such person. When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate, if the sentence be for fine only, may be pronounced in the presence of the Agent, if the accused person has been permitted to appear by Agent, or the accused person may be required to attend to hear such sentence.

Summons to witness to attend and give evidence.

262. If it appear to the Magistrate that any person is likely to give material evidence on behalf of the complainant or the accused person, and that such person will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the hearing of such complaint, the Magistrate shall issue his summons to such person under his signature and seal, requiring him to appear at a time and place mentioned in the summons, to testify what he knows concerning the matter of the complaint.

Magistrate may summon necessary evidence.

163. It shall be at the discretion of the Magistrate, at any stage of the trial, to summon and examine any witness whose evidence he may consider essential to the just decision of the case. The Magistrate may also examine as a witness any person in attendance, although not summoned as a witness.

Application of previous rules.

264. The provisions of Sections 187, 188, 190, 191, and 192, shall be applicable to witnesses summoned according to the provisions of Sections 262 and 263 of of this Act.

Admission by accused of truth of complaint.

265. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should nol be convicted. If the accused person admit the truth of complaint, and show no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Proceeding when no such admission is made.

166. If the accused person do not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he may produce in support of his complaint, and also to hear the accused person and such witnesses as he shall produce in his defence.

Evidence how to be recorded.

267. The Magistrate shall make a memorandum of the substance of the evidence of each witness, as the examination of the witness proceeds. The memorandum shall be written and signed by the Magistrate with his own hand, and shall

form part of the record. If the Magistrate shall be prevented from making a memorandum as above required he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same and such memorandum shall form part of the record. The Magistrate shall record such remarks as he shall think material respecting the demeanor of any witness whilst under examination.

Manner of recording evidence in certain cases.

268. In any case in which the Magistrate shall consider it necessary, it shall be competent to him, instead of taking down merely the substance of the evidence of any witness, to take down the evidence of the witness in the manner provided in Section 195 or in the manner provided by Section 196 of this Act if within the jurisdiction of such Magistrate the local Government shall have made an order as provided in that Section. In any such case the provisions of Sections 199 and 200 shall be applicable to the evidence so taken.

Adjournment.

269. Before or during the hearing of any complaint, it shall be lawful for the Magistrate to adjourn the hearing of the same to a day to be then appointed and stated in the presence and hearing of the party or parties; and if on the day to which such hearing or such further hearing shall have been so adjourned, the accused person shall not appear, the Magistrate may issue his warrant for the arrest of such person, and if the complainant shall not appear, the Magistrate may dismiss the complaint.

Magistrate may award amends in cases of frivolous and vexatious complaints.

270. In any case where the Magistrate shall dismiss the complaint as frivolous and vexatious, it shall be lawful for him, in his discretion, by his order of dismissal, to award that the complainant shall pay to the accused person such amends, not exceeding Fifty Rupees, as to such Magistrate shall seem just and reasonable. The sum so awarded shall be recoverable by distress and sale of the moveable property belonging to the complainant, which may be found within the jurisdiction of the Magistrate of the District, and in default of such distress, by imprisonment in the Civil jail, for any time not exceeding thirty days, unless such amends shall be sooner paid.

Magistrate may permit withdrawal of the complaint.

271. If a complainant at any time before a final order is passed in any case under this Chapter, shall satisfy the Magistrate that there are sufficient grounds for permitting him to withdraw his complaint, the magistrate may permit such complainant to withdraw such complaint. A complaint withdrawn under this Section shall not again be entertained.

Acquittal or conviction.

272. If the Magistrate, in any case tried under this Chapter, shall find the accused person not guilty, he shall record a Judgment of acquittal. If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

CHAPTER XVI.

OF ENQUIRIES AND TRIALS BEFORE THE SUBORDINATE MAGISTRATES.

Reference of cases to subordinate Magistrate.

273. Criminal cases brought before the Magistrate of the District or a Magistrate in charge of a division of a District, either on complaint preferred directly to such Magistrate or on the report of a Police Officer, may be referred by such Magistrate to any Magistrate subordinate to him. The reference shall be for enquiry, or for trial if the offence be triable by such Subordinate Magistrate, or with a view to commitment to the Court of Session if such Magistrate is competent to commit to the Court of Session, or with a view to commitment to the Supreme Court of Judicature if such Subordinate Magistrate is competent to commit to such Supreme Court. Provided that nothing in this Section shall prevent any Subordinate Magistrate from entertaining, either on complaint preferred directly to such Magistrate or on the report of a Police Officer (in cases in which the Subordinate Magistrate is authorized to receive such report), any case that such Magistrate is, by any law for the time being in force, competent to entertain.

Proviso.

Cases how to be referred.

274. When a criminal case is referred under this Chapter to a Subordinate Magistrate, the order of reference, if the case has been brought forward on the report of a Police Officer, shall be recorded on such report, and all processes issued for causing the attendance of the accused person or the witnesses, shall direct them to attend before such Court.

Subordinate Magistrates to follow the same rules of procedure as the Magistrate.

275. In the enquiry into or trial of cases under this Chapter, the Subordinate Magistrate shall be guided by the rules prescribed for the guidance of the Magistrate of the District in similar cases; and Police Officers and others shall be bound to obey all orders and processes issued in such cases in like manner as if such orders or processes had been issued by the Magistrate of the District.

Subordinate Magistrate how to proceed.

276. If, in the course of a trial before a Subordinate Magistrate, the evidence shall appear to him to warrant a presumption that the accused person has been

in cases beyond his jurisdiction.

guilty of an offence which such Magistrate is not competent to try, or for which he is not competent to commit the accused person for trial before the Court of Session, he shall stay proceedings and shall submit the case to the Magistrate to whom he is subordinate. The Magistrate to whom the case is submitted shall either try the case himself or refer it to any Officer subordinate to him having Jurisdiction, or he may commit the accused person for trial before the Court of Session. In any such case, such Magistrate or other Officer as aforesaid shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

In what cases Subordinate Magistrate shall not not pass sentence, but may refer case to the Magistrate.

Magistrate how to proceed in such cases.

277. If in any case tried by a Subordinate Magistrate having jurisdiction in which the accused person is found guilty, such Magistrate shall consider the offence established against the accused person to call for a more severe punishment than he is competent to adjudge, he shall record the finding and submit his proceedings to the Magistrate to whom he is subordinate, and such Magistrate shall pass such sentence or order in the case as he may deem proper and as shall be according to law. In any case the Magistrate to whom the proceedings are submitted, may examine the parties, and recall and examine any witness who shall already have given evidence in the case, and he may call for or take any further evidence.

Subordinate Magistrate, if empowered to do so, may in, lieu of convicting the accused, commit him for trial before the Court of Session.

Procedure in such cases.

278. Nothing in the last preceding Section shall be held to prevent the Subordinate Magistrate in any such case as is therein described, if such Magistrate is empowered to hold the preliminary inquiry into cases triable by the Court of Session and to commit persons to take their trial before such Court, from committing the accused person for trial before the Court of Session instead of finding him guilty. If the Subordinate Magistrate shall be of opinion that the accused person should be committed for trial before the Court of Session, he shall proceed in accordance with Chapter XII of this Act for conducting the preliminary enquiry in cases triable by the Court of Session.

CHAPTER XVII.

PLACE WHERE PRELIMINARY INVESTIGATIONS AND TRIALS HELD, AN OPEN COURT.

Place where investigation is made, an open Court.

279. The place in which the Court of a Magistrate is held for the trial of any complaint or for the purpose of conducting any preliminary investigation into any case triable by a Court of Session or Supreme Court of Judicature, or any Superior Court, shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conveniently contain them; but it shall be lawful for any such Court, if it shall think fit, to order that during the investigation into any particular case triable by a Court of Session or by a Supreme Court of Judicature, no person shall have access to or be or remain in such room or building without the consent or permission of the Court.

CHAPTER XVIII.

OF RECOGNIZANCE AND SECURITY TO KEEP THE PEACE.

Personal recognizance to keep the peace in cases of conviction.

280. Whenever a person charged with rioting, assault, or breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, shall be convicted of such charge before any Court of Session or the Magistrate of the District or other Officer exercising the powers of a Magistrate, and the Court or Magistrate or other Officer as aforesaid by which the accused person is convicted, or the Court or Magistrate or other Officer as aforesaid by which the final sentence or order in the case shall be passed, shall be of opinion that it is just and necessary to require a penal recognizance for keeping the peace from the person so convicted, it shall be lawful to such Court or Magistrate or other Officer as aforesaid so convicting the accused person, or so passing the final sentence or order as aforesaid, in addition, to direct that the person so convicted be required to execute a formal engagement in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year if the sentence or order be passed by the Magistrate of the District or other Officer exercising the powers of the Magistrate, or three years if the sentence or final order be passed by a Court of Session. When any accused person shall be convicted of any offence specified in this Section by an Officer not exercising the powers of a Magistrate, such Officer, if he consider it just and necessary to require a penal recognizance for keeping the peace from the person so convicted, shall report the case to the Magistrate of the District, or other

Officer exercising the powers of a Magistrate to whom such Officer may be subordinate, who shall deal with the case as if the conviction had been before himself.

Security to keep the Peace.

281. In cases in which it may appear necessary to require security for keeping the peace, in addition to the personal recognizance of the party so convicted, it shall also be lawful to the Court or Magistrate or other Officers as aforesaid empowered to require a penal recognizance under the last preceding Section, to require security in addition thereto and to fix the amount of the security-bond to be executed by the surety or sureties; with a provision that, if the same be not given, the party required to find the security shall be kept in custody for any time not exceeding one year if the order be passed by the Magistrate of the District or other Officer exercising the powers of a Magistrate, or three years if the order be passed by the Sudder Court or by a Court of Session.

Summons to any person to shew cause why he should not enter into a bond to keep the peace.

282. It shall be lawful for the Magistrate of the District or other Officer exercising the powers of a Magistrate, whenever he shall receive credible information that any person, whether a European British subject or not, is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, to summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to enter into a bond to keep the peace with or without sureties as such Magistrate shall think fit.

Form of the summons.

283. The summons shall set forth the substance of the information, the amount of the bond, and the term for which it is to be in force, and if security is called for, the number of sureties required, and the amount in which they are to be bound respectively. Such summons shall be served in the manner provided by this Act for the service of a summons on an accused person.

Penalty.

284. The penalty of such bond, which shall be in the form (D) given in the Appendix, or to the like effect, shall be fixed with a due regard to the circumstances of the case and the means of the party, and the amount in which the sureties shall be bound shall not exceed the said penalty.

Warrant of arrest.

285. If the person summoned shall not attend on the day appointed, the Magistrate or other Officer as aforesaid, if satisfied that the summons has been duly served, may issue a warrant for his arrest. Provided that, whenever it shall appear to the Magistrate or other Officer as aforesaid, upon the report of a Police Officer or upon other credible information, the substance of which report or information shall be recorded, that there is just reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, it shall be lawful for the Magistrate at any time to issue a warrant for the arrest of such person.

Magistrate may dispense with the personal attendance of the party informed against.

286. The Magistrate or other Officer as aforesaid may, if he see sufficient cause, dispense with the personal attendance of the person informed against and permit him to appear and enter into the required security, or show cause against such requisition, by an Agent duly authorized to act in his behalf.

Discharge of party informed against.

287. If on the appearance of the person, or of his Agent if he is permitted to appear by Agent, the Magistrate or other Officer as aforesaid shall not be satisfied that there is occasion to bind such person to keep the peace, he shall direct his discharge.

Consequence of not complying with order of Magistrate to enter into a bond.

288. If the Magistrate or other Officer as aforesaid shall be satisfied that it is necessary for the preservation of the peace to take a bond from such person with or without security, he shall make an order accordingly; and if the person shall fail to comply with the order, it shall be lawful for the Magistrate or other Officer as aforesaid to commit him to jail.

Limit for confinement.

289. The period for which the Magistrate or other Officer as aforesaid may bind a person to keep the peace with or without security, shall not exceed one year. When a person shall be committed to jail under the last preceding Section, he shall not be detained by authority of the Magistrate or other Officer as aforesaid beyond the term of one year, and shall be released whenever he shall comply with the order within that term.

Extension of period of confinement.

290. Whenever it shall appear to the Magistrate or other Officer as aforesaid that it is necessary for the preservation of the peace to bind a person beyond the term of one year, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the Court of Session, and such Court, after examining the proceedings of the Magistrate or other Officer as aforesaid, and making such further enquiry as such Court may think necessary, may, if it shall see cause, authorize the Magistrate or other Officer as aforesaid to extend the term for a further period not exceeding one year, and if the party shall fail to give a bond, with security if required, for his keeping the peace for such further period as the Magistrate or other Officer as aforesaid shall direct under the orders of the Court of Session, he may

be kept in confinement for such further period or until he shall give such bond within that period.

Discharge of the recognizances.

291. The Magistrate or other Officer as aforesaid may, if he shall see sufficient cause, discharge any recognizance and surety for keeping the peace taken under preceding Sections, and may order the release of the person confined for default in entering into such recognizance or giving such security.

Discharge of sureties.

292. A surety for the personal appearance of another person may at any time apply to the Magistrate or other Officer as aforesaid, to be relieved from his engagement as security. On such application being made, the Magistrate shall issue his summons or warrant in order that the person for whom such surety is bound, may appear or be brought before him. On the appearance of the person to such warrant or on his voluntary surrender, the Magistrate or other Officer as aforesaid, shall direct the engagement of the security to be cancelled, and shall call upon such person to give fresh security, and in default thereof shall commit him to custody.

Enforcement of penalty against the principal party.

293. Whenever it may be proved before the Magistrate or other Officer as aforesaid that any recognizance or other bond taken under this Chapter has been forfeited, he shall record the grounds of such proof, and shall call upon the person bound by the bond to pay the penalty thereof or to show cause why it should not be paid; and if sufficient cause be not shown and the penalty be not paid, the Magistrate or other Officer as aforesaid shall proceed to recover the same by the attachment and sale of any of the moveable property belonging to the person bound thereby which shall be found within the jurisdiction of the Magistrate of the District, and if the penalty be not paid and cannot be recovered by such attachment and sale, the party shall be liable to imprisonment by order of the Magistrate or other Officer as aforesaid in the Civil Jail for a period not exceeding six months.

Recovery of the Penalty from a surety.

294. Whenever it may be proved before the Magistrate or other Officer as aforesaid that any bond with a surety has been forfeited, the Magistrate or other Officer as aforesaid may at his discretion give notice to the surety to pay the penalty to which he has thereby become liable or to show cause why it should not be paid; and if no sufficient cause be shown, and the penalty be not paid, the Magistrate or other Officer as aforesaid may proceed to recover payment of the penalty from such surety in the same manner as from the principal party.

CHAPTER XIX.

SECURITY FOR GOOD BEHAVIOUR.

When Magistrate may require security for good behaviour for six months.

295. Whenever it shall appear to the Magistrate of the District or to an Officer exercising the powers of a Magistrate that any person is lurking within his jurisdiction not having any ostensible means of subsistence, or who cannot give a satisfactory account of himself, it shall be competent to such Magistrate or other Officer as aforesaid to require security for the good behaviour of such person for a period not exceeding six months.

When Magistrate may require security for good behaviour for one year.

296. Whenever it shall appear to such Magistrate or other Officer as aforesaid from the evidence as to general character adduced before him, that any person is by repute a robber, house-breaker, or thief, or a receiver of stolen property knowing the same to have been stolen, or of notoriously bad livelihood it shall be competent to such Magistrate or other Officer as aforesaid to require security for the good behaviour of such person for a period not exceeding one year.

How to proceed in cases beyond one year.

297. Whenever it shall appear to such Magistrate or other Officer as aforesaid from the evidence as to general character adduced before him, that any person is by habit a robber, house-breaker, or thief, or a receiver of stolen property knowing the same to have been stolen, or of a character so desperate and dangerous as to render his release, without security, at the expiration of the limited period of one year hazardous to the community, the Magistrate or other Officer as aforesaid shall record his opinion to that effect, with an order specifying the amount of security which should, in his judgment, be required from such person, as well as the number of sureties, and the period, not exceeding three years, for which the sureties should be responsible for such person's good behaviour,

Case to be laid before the Court of Session.

298. If the person required to furnish security, as provided in the last preceding Section, shall not furnish the security so required, the proceedings shall be laid, as soon as conveniently may be, before the Court of Session, which, after examining them and requiring any further information or evidence which it may judge necessary, shall be competent to pass orders on the case, either confirming, modifying, or annulling the orders of the Magistrate or other Officer as aforesaid as it may judge proper.

Court of Session may require security.

299. If the Court of Session shall not think it safe to direct the immediate discharge of such person, it shall fix a limited period for his detention, not exceeding three years, in the event of his not giving the security required from him.

300. In every instance in which security for good behaviour shall be required by the Court of Session or the Magistrate or other Officer as aforesaid the amount of the security, the number of sureties, and the period of time for which the sureties are to be responsible for the good conduct of the person required to furnish security, shall be stated in the order. The security-bond shall be in the form (F) given in the Appendix, or to the like effect.

What the order for security is to contain.

301. In the event of any person required to give security under the provisions of the foregoing Sections, failing to furnish the security so required, he shall be committed to prison until he furnish the same. Provided that no party shall be kept in prison for a longer period than that for which the security has been required from him.

In default of security, party to be committed to jail.
Proviso.

302. The Magistrate of the District or other Officer exercising the powers of a Magistrate is empowered, at any time, to exercise his discretion in releasing, without reference to any other authority, any prisoner confined under requisition of security for good behaviour, whether by his own order or by the order of any Officer subordinate to him, provided he shall be of opinion that such person can be released without hazard to the community.

When Magistrate may release persons confined under requisition of security.

308. In any case in which a Magistrate or other Officer as aforesaid shall be of opinion that any person confined under requisition of security for good behaviour by order of a Court of Session, can be safely released without such security, the Magistrate or other Officer as aforesaid shall make an immediate report of the case for the orders of the Court which shall have required the person to furnish the security.

When he must report.

304. A surety for the good behaviour of a person may at any time apply to the Magistrate or other Officer as aforesaid to be relieved from his engagement as surety. On such application being made, the Magistrate or other Officer as aforesaid shall issue his summons or warrant in order that the person may appear or be brought before him. On the appearance of the party pursuant to the warrant or on his voluntary surrender, the Magistrate or other Officer as aforesaid shall direct the engagement of the surety to be cancelled, and shall call upon the person to give fresh security, and in default thereof shall commit him to custody.

Discharge of surety.

305. Whenever the Magistrate or other Officer as aforesaid shall be of opinion that by reason of an offence proved to have been committed by the person for whose good behaviour security has been given subsequent to his having given such security, proceeding should be had upon the bond executed by the surety, he shall give notice to the surety to pay the penalty, or to show cause why it should not be paid ; and if no sufficient cause be shown, the Magistrate or other Officer as aforesaid shall proceed to recover the penalty from such surety by the attachment and sale of any moveable property belonging to such surety which may be found with in the Jurisdiction of the Magistrate of the District ; and if the penalty be not paid, and cannot be recovered by such attachment and sale, such surety shall be liable to imprisonment by order of the Magistrate or other Officer as aforesaid in the Civil Jail, for a period not exceeding six months.

Proceeding to compel payment of penalty by sureties.

306. The several provisions of the last preceding Chapter relating to the issue of summons and warrant of arrest for securing the personal attendance of the party informed against, shall apply to proceedings taken under this Chapter against persons required to give security for their good behaviour.

Issue of summons and warrant of arrest.

307. Any evidence taken under Chapter XVIII or this Chapter, shall be taken in the manner prescribed by Section 267, subject to the provision contained in Section 268 of this Act.

Mode of taking evidence under Chapter XVIII or this Chapter.

CHAPTER XX.

OF LOCAL NUISANCES.

308. Whenever the Magistrate of a District or of a division of a District may consider that any unlawful obstruction or nuisance should be removed from any thoroughfare or public place, or that any trade or occupation, by reason of its being injurious to the health or comfort of the community, should be suppressed or should be removed to a different place, or that the construction of any building or the disposal of any combustible substance, as likely to occasion conflagration, should be prevented, or that any building is in such a state of weakness that it is likely to fall, and thereby cause injury to persons passing by, and that its removal in consequence is necessary, or that any tank or well adjacent to any public thoroughfare should be fenced in such manner as to prevent danger arising to the public, he may issue an order to the person causing such obstruction or nuisance or carrying on such trade or occupation, or being the owner, or in possession of, or

Magistrate may order removal of nuisance.

having control over, such building, substance, tank, or well as aforesaid, calling on such person, within a time to be fixed in the order, to remove such obstruction or nuisance or to suppress or remove such trade or occupation, or to stop the construction of, or to remove such building, or to alter the disposal of such substance, or to fence such tank or well, (as the case may be) or to appear before such Magistrate within the time mentioned in the order, and show cause why such order should not be enforced.

Service or notification of order.

309. Such order shall, if practicable, be served personally on the person to whom it is issued ; but if personal service is found to be impracticable, the order shall be notified by proclamation, and a written notice thereof shall be stuck up at such place or places as may be best adapted for conveying the information to such person.

Person ordered shall obey the order, or may claim a Jury.

Constitution of Jury.

Proceeding in case of neglect by Jury.

310. The person to whom such order is issued shall be bound, within the time spcified in the order, to obey the same or to appear before the Magistrate to show cause as aforesaid, or he may apply to the Magistrate by petition for an order for a Jury to be appointed to try whether the order is reasonable and proper. On receiving such petition, the Magistrate shall forthwith appoint a Jury which shall consist of not less than five persons, whereof the President and one half of the Members shall be nominated by such Magistrate, and the remaining Members by the party petitioning. The Magistrate shall suspend the execution of the order pending such enquiry, and be guided by the decision of the Jury, which shall be according to the opinion of the majority. If the petitioner shall, by neglect or in any other way, prevent the appointment of a Jury, or if from any cause the Jury so appointed shall not decide and report within a reasonable time to be fixed in the order for the appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the Magistrate, and if from any of the above causes no decision be made by the Jury, the order of the Magistrate shall be carried into effect as hereinafter provided.

Procedure in case of disobedience or neglect by party ordered.

311. If the person to whom the order mentioned in Section 308 is issued shall not obey such order, or show cause against the same as hereinafter provided, or petition for a Jury within the time specified in such order, he shall be liable to the penalty prescribed in that behalf in Section 188 of the Indian Penal Code, and the Magistrate who issued such order may proceed to carry such order into execution at the expense of such person, and may realize such expenses either by the sale of any building, goods, or other property removed by his order, or by the distress and sale of the personal property of the person aforesaid, and no suit or action shall be entertained in any Court in respect of any thing necessarily or reasonably done to give effect to such order.

If Jury find order of Magistrate to be reasonable and proper.

312. If in a case referred to a Jury, the Jury shall find that the order of the Magistrate is reasonable and proper, the Magistrate shall give notice thereof to the person to whom the order was issued, and shall add to such notice an order to obey the order first mentioned within a time to be fixed therein under the penalty provided by the Indian Penal Code as aforesaid. If such latter order shall not be obeyed, the Magistrate may proceed as in the last preceding Section.

If party ordered satisfy the Magistrate that the order is not reasonable and proper.

383. If the person to whom the order of the Magistrate is issued, shall appear and show cause against the same, and shall satisfy the Magistrate that the order is not reasonable and proper, no further proceeding shall be taken in the case

Issue and enforcement of injunction.

314. If pending the enquiry by a Jury, the Magistrate shall consider that immediate measures are necessary to be taken to prevent imminent danger or injury of a serious kind to the public, it shall be lawful for such Magistrate to issue such an injunction and order to the person mentioned in that behalf in Section 308, as shall be required to obviate or prevent such danger or injury, and in default of such person forthwith taking all necessary measures ordered to be taken by such injunction or order, the Magistrate may himself use or cause to be used such means as may be necessary to obviate such danger or to prevent such injury, and no suit or action shall be entertained in respect of any thing necessarily or reasonably done for that purpose.

Saving of certain provisions.

315. Nothing in this Chapter shall interfere with the provisions of Section XLVIII of Act XXIV of 1859 *(for the better regulation of the Police within the territories subject to the Presidency of Fort St. George)* or of Section XXXIV of Act of 1861 *(for the regulation of Police.)*

CHAPTER XXI.

OF THE MAINTENANCE OF WIVES AND CHILDREN.

Magistrate may make order for main

316. If any person having sufficient means, neglects or refuses to maintain his wife or any legitimate or illegitimate child unable to maintain himself, it shall

be lawful for the Magistrate of the District or other Officer exercising the powers of a Magistrate, upon due proof thereof, to order such person to make a monthly allowance for the maintenance of his wife or such child at such monthly rate, not exceeding Fifty Rupees in the whole, as to the Magistrate or other Officer as aforesaid shall seem reasonable; and if such person shall wilfully neglect to comply with the order, the Magistrate or other Officer as aforesaid may, for every breach of the order, by warrant, direct the amount due to be levied in the manner provided for levying fines; or may order such person to be imprisoned with or without hard labor for any term not exceeding one month. Provided that if such person offer to maintain his wife on condition of her living with him, and his wife shall refuse to live with him, it shall be lawful for the Magistrate or other Officer as aforesaid to consider any grounds of refusal stated by such wife; and he may make the order allowed by this Section notwithstanding such offer, if he shall be satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty. No wife or child, shall be entitled to received an allowance from her husband under this Section, if she is living in adultery, or if without any sufficient reason she refuses to live with her husband.

tenance of wives and children.

Enforcement of order.

Proviso.

317. Any person ordered to pay a monthly allowance forthe maintenance of his wife, or child or both, under the provisions of the last preceding Section, may apply to the Magistrate from time to time for the reduction of such allowance, and on proof of an alteration in the circumstances of such person, his wife, or child, justifying such reduction, such Magistrate may make such reduction in the allowance ordered as he may deem fit.

Application for reduction of allowance.

CHAXTBR XXI,

OF DISPUTES RELATING TO THE POSSESSION OF LAND OR THE RIGHT OF USE OF ANY LAND OR WATER.

318. Whenever the Magistrate of the District or other Officer exercising the powers of a Magistrate shall be satisfied that a dispute, likely to induce a breach of the peace, exists concerning any land, premises, water, fisheries, crops, or other produce of land, within the limits of his jurisdiction, he shall record a proceeding stating the grounds of his being so satisfied, and shall call on all parties concerned in such dispute to attend his Court in person, or by agent, within a time to be fixed by the Magistrate or other Officer as aforesaid, and to give in a written statement of their respective claims, as respects the fact of actual possession of the subject of dispute. The Magistrate or other Officer as aforesaid, shall, without reference to the merits of the claims of any party to a right of possession, proceed to enquire which party is in possession of the subject of dispute, and after satisfying himself upon that point, shall record a proceeding declaring the party whom he may decide to be in such possession, to be entitled to retain possession until ousted by due course of law, and forbidding all disturbance of possession until such time.

Magistrate how to proceed if any dispute concerning land, &c. is likely to cause a breach of the peace.

Party in possession to be continued until ousted by due course of law.

319. If the Magistrate or other Officer as aforesaid shall decide that neither of the parties is in possession, or shall be unable to satisfy himself as to which person is in possession of the subject of dispute, he may attach the subject of dispute, until a competent Civil Court shall have determined the rights of the parties, or who ought to be in possession.

If previous possession cannot be ascertained, Magistrate may attach subject of dispute.

320. If a dispute arise concerning the right of use of any land or water, the Magistrate or other Officer as aforesaid within whose jurisdiction the subject of dispute lies may enquire into the matter, and if it shall appear to him that the subject of dispute is open to the use of the public, or of any person, or of any class of persons, the Magistrate or other Officer may order that possession thereof shall not be taken or retained by any party to the exclusion of the public, or of such person, or of such class of persons, as the case may be, until the party claiming such possession shall obtain the decision of a competent Court adjudging him to be entitled to such exclusive possession. Provided that the Magistrate or other Officer as aforesaid shall not pass any such order, if the matter be such that the right of use is capable of being exercised at all times of the year, unless that right shall have been ordinarily exercised within three months from the date of the institution of the enquiry, or in cases where the right of use exists at particular seasons, unless such right has been exercised during the last of such seasons before the complaint.

Disputes concerning right of use of land or water.

321. Nothing in this Chapter shall affect the powers of a Collector or a person exercising the powers of a Collector, or of a Revenue Court.

Saving of powers of Collectors and Revenue Courts.

CHAPER XXIII.

OF JURIES AND ASSESSORS.

Local Government by order to specify in what places trials to be by Jury.

322. The local Government may order that the trial of all offences or any particular class of offences by any Court of Session shall be by Jury in any District, and such local Government may from time to time revoke or alter such order. Orders passed under this Section shall be published in the *Government Gazette*, and in such other manner as the local Government shall direct.

How the Jury is to be constituted for the trial of persons belonging to certain specified races.

Proviso.

323. Criminal trials before the Courts of Session in which a European (not being a British subject) or an American is the accused person or one of the accused persons, shall be by Jury; and in such case the Jury. if such European or American desire it, shall consist of at least one-half of Europeans (whether British subjects or not) or Americans if such a Jury can be procured. Provided that in any District in which the local Government shall not have ordered that all trials or trials for all offences of the class within which the trial about to take place falls, shall be by Jury, such European or American may elect to be tried without Jury.

Trials before the Session Court with Assessors.

324. In a trial before the Court of Session not by Jury, the trial shall be conducted with the aid of two or more Assessors as Members of the Court. The opinion of each Assessor shall be given orally and shall be recorded in writing by the Court, but the decision is vested exclusively in the Judge.

How the Jury is to be constituted for the trial of other persons.

325. In a trial by Jury before the Court of Session in which a person not belonging to the races specified in Section 323 shall be tried, at least one-half of the Jury, if the accused person desire it, shall consist of persons not belonging to either of such races.

How the Jury is to be constituted when persons of both descriptions are jointly charged.

326. In any case before the Court of Session in which a person not belonging to the races mentioned in Section 323 is charged jointly with a person belonging to one of those races, and such last mentioned person claims to be tried by a Jury consisting of at least one-half of Europeans or Americans, the person not belonging to either of such races shall, if he desire it, be tried separately.

Number of which the Jury is to consist.

327. In trials by Jury before the Court of Session the Jury shall consist of five persons, or of such number, being an uneven number and not being less than five or more than nine, as the local Government by any general order applicable to any particular District or to any particular classes of offences in that District shall direct

Number of voices necessary to a verdict.

328. If the Jury are unanimous in a verdict of guilty, the accused person shall be convicted. If the Jury shall consist of five persons, and a majority of four find the accused person guilty, or if the Jury shall consist of seven persons and a majority of five find the accused person guilty, or if the Jury shall consist of nine persons and a majority of six find the accused person guilty, the accused person shall be convicted. If the Jury are unanimous in a verdict of not guilty, the accused shall be acquitted. If the Jury shall consist of five persons and a majority of four find the accused person not guilty, or if the Jury shall consist of seven persons and a majority of five find the accused person not guilty, or if the Jury shalll consist of nine persons and a majority of six find the accused person not guilty, the accused person shall be acquitted, and the Judge shall not receive a verdict of acquittal unless it be unanimous or found by such majority as last aforesaid.

List of Jurors and Assessors.

329. The Collector of the District or other Officer exercising the powers of a Collector of a District shall, from time to time, prepare and make out in alphabetical order, a list of persons residing within ten miles from the place where trials before the Court of Sessions are held, or within such other distance as the local Government may think fit to direct, who are in the judgment of the Collector or other Officer as aforesaid qualified from their education and character to serve as Jurors or as Assessors respectively. The list shall contain the name, place of abode, and quality or business of every such person; and if the person belongs to either of the races specified in Section 323, the list shall mention the race to which he belongs.

Publication of list.

330. Copies of such list shall be stuck up in the Office of the Collector or other Officer as aforesaid and in the Court houses of the Magistrate of the District and of the Chief Civil Court, and in some conspicuous place in the town or towns near or in the vicinity of which the persons named in the list reside, and every such copy shall have subjoined to it a notice, stating that objections to the list will be heard and determined by the Collector or other Officer as aforesaid at a time and place to be mentioned in the notice.

Revision of list.

331. The Collector or other Officer as aforesaid shall at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not qualified in his judgment to serve as a Juror or as an Assessor, and insert the name of any person omitted therefrom, whom he deems qualified for such service.

A copy of the revised list shall be signed by the Collector or other Officer as aforesaid and transmitted to the Court of Session. Any order of the Collector or other Officer as aforesaid in preparing and revising the list shall be final.

Further revision of list.

332. The list so prepared and revised shall be again revised at least once in every year, and the list so revised shall be deemed a new list and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

Jurors.

333. Except as hereinafter provided, all male persons between the ages of twenty-one and sixty, resident within the limits of the Jurisdiction of the Court of Session, shall be deemed capable of serving as Jurors and Assessors, and shall be liable to be summoned accordingly.

Disqualifications.

334. The following persons are incapable of serving as Jurors or as Assessors in trials before the Court of Session, namely:—

Persons who hold any Officer in or under the said Court.

Persons executing any duties or entrusted with any Police functions.

Persons who have been convicted of any offence against the State, or of any fraudulent or other offence which, in the judgment of the Collector, renders them unfit to serve on the Jury.

Persons who are afflicted with any infirmity of body or mind, sufficient to incapacitate them from serving.

Persons who, by habit or religious vows, have relinquished all care of worldly affairs.

Exemptions.

335. The following persons are exempt from the liability to serve as Jurors or as Assessors, namely :—

Judges and other Judicial Officers.

Commissioners and Collectors of Revenue or Customs.

All persons engaged in the Preventive Service in the Customs Department.

All persons engaged in the collection of the Revenue whom the Collector may think fit to exempt on the ground of official duty.

Chaplains and others employed in Religious Offices.

All persons in the Military service.

Surgeons and others who openly and constantly practise in the profession of Physic.

Persons employed in the Post Office and Electric Telegraph Departments.

Persons actually officiating as priests in their respective religions.

Persons exempted by Government from personal appearance in Court under the provisions of Section 22 of Act VIII of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.*)

The exemption from service given by this Section is a right of which each person exempted may avail himself or not. Nothing herein contained shall be construed to disqualify any such person if he shall be willing to serve as a Juror or as an Assessor.

Court to summons Jurors.

336. The Court of Session shall ordinarily, three days at the least before the time fixed for the holding of Sessions, cause the Magistrate to summon as many persons named in the said revised list as seem to the Court to be needed for trials by Jury and trials with the aid of Assessors at the said Sessions, the number to be summoned not being less than double the number required for any case about to be tried at such Sessions. The names of the persons to be summoned shall be drawn by lot in open Court, excluding those on the revised list who have served within six months, unless the number cannot be made up without them, and shall be specified in the precept to the Magistrate.

Form and service of summons.

337. Every summons to a Juror or Assessor shall be in writing, and shall require his attendance as a Juror or Assessor at a time and place to be therein specified. The summons or a copy thereof shall be served on every Juror or Assessor personally. If the Juror or Assessor summoned be absent from his usual place of abode, the summons may be left for him there with some adult male member of his family residing with him.

Power of Court to summon another set of Jurors or Assessors.

338. The Court of Session may direct Jurors or Assessors to be summoned at other periods than the period specified in Section 336 when the number of trials before the Court renders the attendance of one set of Jurors or Assessors for a whole Session oppressive, or whenever it may be found to be necessary.

Service of summons to serve as Juror or Assessor, on an Officer of Government.

339. If any person summoned to serve as a Juror or Assessor, be an Officer of Government, the summons shall be transmitted to such person through the Head Officer of the Office in which he is employed, and the Court may excuse the attendance of such person if it shall appear on the representation of such Head Officer that such person cannot serve as a Juror or Assessor without inconvenience to the public service.

Court may excuse attendance of a Juror or Assessor.

340. The Court of Session may excuse any Juror or Assessor from attendance for reasonable cause.

List of names of Jurors or Assessors attending at each Session.

341. At each Session the Court shall cause to be made a list of the names of those who serve as Jurors or Assessors at such Session. The list shall be kept with the revised list of the Jurors and Assessors prepared under Section 331. A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this Section.

Jurors to be chosen by lot.

Assessors to be selected by Judge.

342. Whenever a trial by Jury is to be held, the persons who are to constitute the Jury shall be chosen by lot immediately bef re the commencement of the trial from the Jurors who attend in obedience to the summons. If the trial is to be held with the aid of Assessors, the Judge shall select from the persons summoned to act as Assessors, two or more persons to assist him in such trial.

Names of Jurors to be called.

Objections.

343. Before the commencement of a trial by Jury the names of the Jurors shall be called aloud, and upon the appearance of each Juror, the accused person shall be asked if he objects to be tried by such Juror. Any objection may then be made to such Juror by the accused person or by the Government Pleader or other person appointed to conduct the prosecution, and the grounds of objection shall be stated. Any objection made to a Juror shall be decided by the Court and the decision of the Court shall be final. If an objection be allowed, the place of such Juror shall be supplied by any other Juror in attendance in obedience to a summons, or if there be no such Juror present, then by any other person present in the Court whose name is on the list of Jurors, or whom the Court shall consider a proper person to serve on the Jury, provided no objection to such Juror or other person be made and allowed.

Grounds of objection.

344. Any objection taken to a Juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed :—

(1.) Any ground of disqualification within Section 334.

(2.) Standing in the relation of husband, master or servant, landlord or tenant, to the person alleged to be injured or attempted to be injured by the offence charged, or to the person on whose complaint the prosecution was instituted, or to the person accused; being in the employment on wages of either of such persons; being plaintiff or defendant against either of such persons in any Civil suit, or having complained against or having been accused by either of such persons in any Criminal prosecution.

(3.) Any circumstance which, in the judgment of the Court, is likely to cause prejudice against, or favor to, either of such persons.

Juror to understand the language in which evidence is given or interpreted.

345. The Judge shall not allow any person to serve on the Jury, unless such person understands the language in which the evidence is given or interpreted.

Foreman of Jury.

346. The Jury shall appoint one of their number to be Foreman. It shall be the duty of such Foreman to preside in the debates of the Jury, to deliver the verdict of the Jury, or ask any information from the Court that may be required by the Jury. If a majority do not agree in the appointment of a Foreman, he shall be named by the Court.

The same Jury or Assessors may try in succession several offenders.

347. The same Jury, if not objected to, may try, or the same Assessors may aid in the trial of, as many accused persons successively as to the Court shall seem expedient.

View by Jury or Assessors.

348. Whenever in the opinion of the Court it may be proper and convenient that the Jury or Assessors should have a view of the place in which the offence charged is said to have been committed, or of any other place in which any other transaction material to the enquiry in the trial took place, an order shall be made to that effect, and the jury or Assessors shall be conducted in a body under the care of an Officer of the Court to the place which shall be shown to them by a person appointed by the Court, and it shall be the duty of the Officer not to suffer any other person to speak to or hold any communication with any of the Jury or Assessors, and they shall, when the view is finished, be immediately conducted back into Court.

Mode of summoning and empanelling Jurors for a Jury constituted under Section CCCXXIII.

349. When a trial is held in which the accused person or one of the accused persons is entitled to be tried by a Jury constituted under the provisions of Section 323 of this Act, the Court of Session shall, three days at the least before the day fixed for holding such trial, cause to be summoned in the manner prescribed in Section 336 such a number of Jurors of the races mentioned in Section 323 as is equal to the total number of Jurymen required for the trial, if so many of such races be on the Jury List of the District. The Court shall also at the same time in like manner cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons shall have been summoned for Jury trials at that Session. The names of the persons to be summoned shall be drawn by lot, excluding those who have served within six months, unless the number cannot be made up without them. From the whole number of persons returned, the Jurors who are to constitute the Jury shall be taken by lot in

the manner prescribed Section 342, until a Jury, containing the proper number of the races mentioned in Section 323, or a number approaching as nearly thereto as possible, has been obtained. The Jurors shall be liable to the same objections as any other Jurors. If a Jury containing the requisite number of the races mentioned in Section 323 be not obtained, the accused person may elect to be tried by the Judge with the aid of Assessors ; otherwise he shall be tried by the Jury obtained by the means aforesaid.

If prior to finding, any of the Jury be unable to proceed with the trial.

350. If, in the course of a trial by Jury at any time prior to the finding, any Juror shall, from any sufficient cause, be prevented from attending through the trial, or if any Juror shall absent himself, and it shall not be possible to enforce his attendance, a new Juror shall be added, or the Jury shall be discharged, and a new Jury empannelled, and in either case the trial shall commence anew.

Verdict of guilty by less than the specified majority of Jury.

351. In any trial by Jury if the accused person is found guilty by a majority consisting of a less number of the Jury than is specified in that behalf in Section 328 of this Act, or if the accused person be found not guilty by a majority consisting of a less number of the Jury than is therein in that behalf specified, the Jury shall be discharged, and in any such case as aforesaid there shall be a new trial before a Jury consisting entirely of other Jurors, and the accused person may be remanded or held to bail for such new trial. If, on any new trial by Jury, the accused person shall not be found guilty by a majority consisting of such a number as aforesaid, he shall be acquitted.

When and how long Jury may retire for finding.

352. At the close of the trial and after the judge has summed up the evidence as hereinafter provided by Section 379 of this Act, the Jury may retire to consider their finding, and it shall be the duty of an Officer of the Court not to suffer any person to speak to or hold any communication with any member of such Jury. In any case in which a Jury shall be prepared to deliver their finding, the Judge shall ask the Jury whether they are unanimous, and if the Foreman or one of the Jury shall declare that they are not unanimous, the Judge may require such Jury to retire for further consideration. If after such a period as the Judge shall consider reasonable, the Foreman or any one of the Jury shall declare that they are not unanimous, the Jury may deliver their verdict.

If either of the Assessors be unable to proceed with trial.

353. If, in the course of a trial with the aid of Assessors, at any time prior to the finding, any Assessor shall, from any sufficient cause, be prevented from attending through the trial, the trial shall proceed with the aid of the other Assessor or Assessors. If all the Assessors are prevented from attending through the trial, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh Assessors.

Penalty for non-attendance of Juror or Assessor.

354. Any person summoned to attend as a Juror or as an Assessor, who shall without lawful excuse fail to attend as required by the summons or having attended shall depart without having obtained the permission of the Court, shall be liable by order of the Court of Session to a fine not exceeding One Hundred Rupees, to be levied by the Magistrate of the District by attachment and sale of any moveable property belonging to such Juror or Assessor within the jurisdiction of the Court making the order, or in default of recovery of the fine by such attachment and sale, such Juror or Assessor may be imprisoned in the Civil Jail for the space of fifteen days if the fine be not sooner paid.

CHAPTER XXIV.

OF SUBORDINATE JUDGES AND PRINCIPAL SUDDER AMEENS IN THE PRESIDENCY OF FORT SAINT GEORGE.

Criminal Jurisdiction and powers of punishment of Subordinate Judges and principal Sudder Ameens.

355. The Subordinate Judges and Principal Sudder Ameens in the Presidency of Fort Saint George shall continue to exercise under this Act, subject to the provisions of the Indian Penal Code, the Criminal jurisdiction which they are competent to exercise under any law for the time being in force, and shall have the same powers of punishment as are given by this Act to an Officer exercising the powers of a Magistrate.

What cases Subordinate Magistrates may commit and what cases they may refer to Magistrate.

356. Subordinate Magistrates of the first and second class in the presidency of Fort Saint George shall commit to the Court of Session any person charged with offences triable exclusively by that Court, or shall, under such orders as the Sudder Court shall from time to time issue, either commit to the Subordinate Judges or Principal Sudder Ameens the cases of persons accused of offences triable by such Subordinate Judges or Principal Sudder Ameens, or refer such cases for the orders of the Magistrate of the District or other officer exercising the powers of a Magistrate. If the case be referred to the Magistrate of the District or other Officer as aforesaid, such Magistrate or other Officer shall examine the

parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

Subordinate Magistrate after trial may refer to Magistrate of the District.

357. If in any case tried by a Subordinate Magistrate of the first or second class in the Presidency of Fort Saint George in which the accused person is found guilty, such Magistrate shall consider the offence established against the accused person to call for a more severe punishment than such Magistrate is competent to adjudge, he shall record the finding and submit his proceedings to the Magistrate of the District or other Officer exercising the powers of a Magistrate, and the Magistrate of the District or other Officer as aforesaid shall pass such sentence or order in the case as he may deem proper and as shall be according to law. In any such case, the Magistrate or other Officer to whom the proceedings are submitted may examine the parties, and recall and examine any witness who shall already have given evidence in the case, and he may call for or take any further evidence.

Cases committed for trial before Subordinate Judges and Principal Sudder Ameens.

358. In cases committed for trial before the Subordinate Judges or Principal Sudder Ameens in the Presidency of Fort Saint George, they shall be guided by the rules contained in this Act for the trial of cases before the Magistrate, which are hereby made applicable to such cases. The Subordinate Judges and Principal Sudder Ameens may commit any case to the Court of Session in which the evidence is such as to warrant a presumption that the accused person has been guilty of an offence calling for a more severe punishment than such Subordinate Judges or principal Sudder Ameens are authorized to adjudge.

CHAPTER XXV.

TRIALS BEFORE THE COURT OF SESSION.

Cognizance of offences by the Court of Session in original jurisdiction.

359. Except in the case referred to in Section 172 of this Act, a Court of Session, as a Court of original criminal Jurisdiction, shall not take congizance of any offence but upon a charge preferred by a Magistrate or other Officer specially empowered under this Act or under any other law to make commitments to such Court.

Every trial before Court of Session to be conducted by Government Pleader, etc.

360. In every trial before a Court of Session, the prosecution shall be conducted by the Government Pleader or by some other Officer specially empowered in that behalf, and the complainant, if there be a complainant, shall be examined as a witness in the case.

Postponement of trial.

361. A Court of Session may direct the postponement of a trial, when it is satisfied that such postponement is proper and will promote the ends of Justice.

Commencement of trial.

362. When the Court is ready to commence the trial, the accused person shall be brought before it, and the charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried. If the accused person plead guilty, the plea shall be recorded, and the accused may be convicted thereon.

Refusal to plead or plea of claim.

363. If the accused person shall refuse to plead, or shall claim to be tried, the Court shall proceed to try the case, taking all the evidence that is forthcoming.

Provisions relating to examination of parties, &c., on trials before Magistrate to be applicable to trials before Court of Session.

364. The provisions of Sections 195, 196 197, 198, 199, and 200, of this Act, relating to the examination of parties and witnesses, the mode of recording evidence and the correction, attestation, and interpretation thereof in trials before the Magistrate shall be applicable to trials before the Court of Session under this Chapter.

Witness refusing to answer may be committed to custody.

365. If any witness shall refuse to answer any question which shall be put to him, and shall not offer any just excuse for such refusal, the Court may commit such witness to custody for such reasonable time as it may deem proper, unless he shall in the meantime consent to be examined and to answer. In the event of such witness persisting in his refusal, he may be dealt with according to the provisions of Section 163 of this Act.

Examination of accused before the Magistrate to be evidence at the trial.

366. The examination of the accused person before the Magistrate shall be given in evidence at the trial. The attestation of the Magistrate shall be sufficient *primâ facie* proof of such examination, and such attestation shall be admitted without proof of the signature to it, unless the Court shall see reason to doubt its genuineness.

Court may summon necessary evidence.

367. It shall be in the discretion of the Court, at any stage of a trial, to summon and examine any witness whose evidence it shall consider essential to the just decision of the case. The Court may also examine as a witness any person in attendace although not summoned as a witness.

Evidence of medical witness.

368. The Court shall receive as *primâ facie* evidence the examination of a Civil Surgeon or other medical witness taken and duly attested by the Magistrate. Provided that it shall be competent to the Court to Summon such Civil Surgeon or other Medical witness, if it shall see sufficient cause for doing so.

369. The examination of a witness taken and attested by the Magistrate in the presence of the accused person may be given in evidence if the witness be dead or the Court be satisfied that for any sufficient cause his attendance cannot be procured.

Examination witness taken and attested by Magistrate when admissible.

370. Any document purporting to be a report from the Chemical Examiner or Government upon any matter or thing duly submitted to him for examination or analysis and report in the course of any criminal trial or in any preliminary enquiry relating thereto, shall be received in evidence at a trial by the Court of Session, if it bear the signature of such Examiner, and no proof of such signature or that the person signing holds such office, shall be requisite unless the Court shall see reason to doubt the genuineness of the document.

Report of Chemical Examiner admissible in evidence.

371. The declaration of a deceased person, whether it be made in the presence of the accused person or not, may be given in evidence if the deceased person at the time of making such declaration believed himself to be in danger of approaching death, although he entertained at the time of making it hopes of recovery.

Dying declaration.

372. When the case for the prosecution has been brought to a close, the accused person shall be called upon to enter upon his defence, and to produce his evidence.

Defence.

373. The Court, at the close of the evidence on behalf of the accused person if any evidence is adduced on his behalf, or otherwise at the close of the case for the prosecution, may put any question to the accused person which it may think proper. It shall be in the option of the accused person to answer such question.

When accused person may be examined.

374. The accused person or his Counsel or Agent may, at his option, address the Court at the close of the case for the prosecution, or at the close of any evidence that may be adduced on his behalf, or if any question shall be put to the accused person by the Court, after such question shall have been so put.

When accused may address the Court.

375. The accused person shall be allowed to examine any witness not previously named by him if such witness be in attendance, but he shall not be entitled of right to have any other witness summoned than the witnesses named in the list delivered to the Magistrate by whom he was committed or held to bail for trial, except as provided in Section 246 of this Act.

Witness for the defence.

376. If any evidence is adduced on behalf of the accused person, or if he answers any question put to him by the Court, the prosecutor, or the Counsel or Agent for the prosecution, shall be entitled to a reply.

Prosecutor's right of reply.

377. The Court may in its discretion, from time to time, adjourn the trial as may be necessary.

Adjournment.

378. In the event of the adjournment of a trial by Jury or with the aid of Assessors, the Jury or Assessors shall be required to attend at the adjourned sitting, and at every subsequent sitting until the conclusion of the trial; and any Juror or Assessor who shall without lawful excuse fail so to attend, shall be liable to the penalty prescribed in Section 354 of this Act, and such penalty shall be enforced in the manner therein prescribed.

Jury or Assessors to attend at adjourned sitting.

379. In a trial by Jury, the Judge shall sum up the evidence on both sides, and the Jury shall then deliver their finding upon the charge. A statement of the Judge's direction to the Jury shall form part of the record. In trials not by Jury, the ground of the Judge's decision shall be recorded.

Of verdict of Jury.

380. If the accused person is acquitted, the Court shall record a judgment of acquittal. If the accused person is convicted, the Court shall proceed to pass sentence upon him according to law. Provided that if the Court pass sentence of death, the sentence shall not be executed without the confirmation of the Sudder Court. If the accused person shall be convicted of an offence which by the Indian Penal Code is punishable with death, and the Court shall sentence such person to any punishment other than death, the Court shall state the grounds upon which it remitted the punishment of death in the statement of trials to be periodically submitted to the Sudder Court, as hereinafter required, under the head of "Sentences passed upon the accused persons."

Acquittal or conviction.

CHAPTER XXVI.

FINDING, JUDGMENT, AND SENTENCE.

381. When the trial in any Criminal Court is concluded, the Court, in passing judgment, if the accused person be convicted, shall distinctly specify the offence of which, and the Section of the Indian Penal Code under which he is convicted, or if it be doubtful under which of two Sections the offence falls, shall distinctly express the same, and pass judgment in the alternative, according to Section 72 of the said Code.

What the judgment is to specify.

Form of finding and sentence.

382. The finding and sentence shall be recorded in one of the following forms, or to the same effect :—

In trials by Jury :—

When the Jury are unanimous :—

The Jury are unanimous in finding that Z is guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under Section 121 of the Indian Penal Code; and the Court directs that the said Z be [*sentence.*]

2nd. The Jury are unanimous in findint that Z is not guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under Section 121 of the Indian Penal Code; and the Court directs that the said Z be discharged.

When the Jury are not unanimous, but such a majority as is required by Section 328 of this Act concur in finding the accused guilty :

3rd. A majority (stating the number, consisting of four out of five, or five or six out of seven, or six, seven, or eight out of nine, as the case may be) find that Z is guilty of the offence specified in the charge, namely that Z has, with the intention of inducing the Honorable A. B., a Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code. The Court directs that the said Z be [*sentence.*]

When the Jury are not unanimous, but such a majority as is required by Section 328 of this Act concur in finding the accused not guilty.

4th. A majority of the Jury (stating the number, as above,) find that Z is not guilty of the offence specified in the charge namely, that Z has, with the intention of inducing the Honorable A. B., a Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code. The Court directs that the said Z be discharged.

When the Jury, or such a majority as is required by Section 328 of this Act concur in finding the accused guilty of an offence, but are doubtful under which of two heads of a charge the offence falls :

5th. The Jury, or a majority of the Jury (stating the number, as above,) find that Z is guilty either of the offence specified in the first head of the charge, or of the offence specified in the second head of the charge, namely, that Z has either committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code, or that he has committed criminal breach of trust and has thereby committed an offence punishable under Section 406 of the said Code. The Court directs that, under the provisions of the above-mentioned Sections and the provisions of Sections 72 of the Indian Penal Code, the said Z be [*sentence.*]

When a majority less than the number required by Section 328 of this Act find the accused guilty :

6th. A majority of the Jury (stating the number, as above,) find that Z is guilty of the offence specified in the charge, namely, that he has committed &c., &c., the Court directs that the Jury be discharged, and that there be a new trial.

A similar form shall be followed if a verdict of not guilty is found by a majority less than is required by Section 328 of this Act.

If the finding be on a second trial, and a majority less than is required by Section 328 of this Act, find the accused guilty :

7th. A Majority of the Jury (stating the number, as above,) find that Z is guilty of the offence specified in the charge, namely, that he has committed &c., &c,. This being a second trial under Section 351 of the Code of Criminal Procedure, the Court directs that the said Z be discharged.

In trials with Assessors:

9th. The Court, concurring with the Assessors (or one or more of the Assessors) finds that Z is guilty of the offence specified in the charge, namely, that Z has committed the offence of rioting and has thereby committed an offence punishable under Section 147 of the Indian Penal Code; and the Court directs that the said Z be [*sentence.*]

10th. The Court, differing from the Assessors, finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed the offence of rioting and has thereby committed an offence punishable under Section 147 of the Indian Penal Code; and the Court directs that the said Z be discharged.

11th. Court, concurring with one of the Assessors, finds that Z is guilty either of the offence specified in the first head of charge, or of the offence specified

in the second head of charge, namely, that Z has either committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code, or that he has committed criminal breach of trust and has thereby committed an offence punishable under Section 406 of the Indian Penal Code; and the Court directs that, under the provisions of the above-mentioned Sections and the provisions of Section 72 of the Indian Penal Code, the said Z be [*sentence.*]

In trials upon a formal charge, without Jury or the aid of Assessors:

12*th.* The Court finds that Z is guilty of the offence specified in the charge, namely, that Z has committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code; and the Court directs that the said Z be [*sentence.*]

13*th.* The Court finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code; and the Court directs that the said Z be discharged.

In trials in which no formal charge has been prepared:

14*th.* The Court finds that Z has used criminal force and has thereby committed an offence punishable under Section 353 of the Indian Penal Code, and directs that the said Z be [*sentence.*]

15*th.* The Court finds that the complaint of assault is not proved, acquits Z, and directs that he be discharged.

Execution of sentence of Court in cases referred to the Sudder Court for confirmation of sentence.

383. In cases referred by the Court of Session for the confirmation of a sentence by the Sudder Court, the proper Officer of the Sudder Court shall, without delay, after the order of confirmation or other order has been made by the Sudder Court, transmit a copy of the order under the seal of the Sudder Court, and attested with his official signature, to the Court of Session, which, if the sentence be confirmed, shall immediately issue a warrant to the Magistrate or other Officer in charge of the jail in which the prisoner is confined to cause the sentence or order to be carried into execution; or in the case of any other order, shall cause such order to be carried into effect.

Court of Session to direct warrant to District Magistrate.

384. In cases tried by the Court of Session, the Court shall forward a copy of its sentence, together with a warrant for the execution of the same, directed to the Magistrate of the District in which the trial was held or to such other Officer as aforesaid.

Execution of sentence under the last foregoing Sections.

385. Upon the receipt of a warrant under either of the last two preceding Sections the Magistrate or other Officer as aforesaid shall cause the sentence to be executed, and shall return the warrant, when the sentence has been fully executed, to the Court from which it issued, with an endorsement under his signature, certifying the manner in which the sentence has been executed.

386. Repealed by Act VIII. of 1869.

Transmission of periodical calendars of trials by Court of Session.

387. The Court of Session shall transmit to the Sudder Court such periodical statements or calendars of trials held by such Court as the Sudder Court shall prescribe, exhibiting the offences charged, the offences of which the accused persons are convicted, and the sentences or orders passed upon them.

CHAPTER XXVII.

OF LUNATICS.

Procedure in case of accused person being lunatic.

388. When any person who is charged with an offence shall appear to the Magistrate having jurisdiction to be of unsound mind and incapable, in consequence, of making a defence, the Magistrate shall institute an inquiry to ascertain the fact of such unsoundness of mind, and shall cause the accused person to be examined by the Civil Surgeon of the District or some other Medical Officer, and thereupon shall examine such Civil Surgeon or other Medical Officer, and shall reduce the examination into writing; and if the Magistrate shall be of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

Procedure in case of person committed before a Court of Session being lunatic.

389. If any person who shall be committed for trial before a Court of Session, shall at his trial appear to the Court to be of unsound mind and incapable of of making his defence, the Court shall in the first instance try the fact of such unsoundness of mind and if satisfied of the fact, shall give a special judgment that the accused person is of unsound mind and incapable of making his defence, and thereupon the trial shall be postponed.

Release of lunatic pending investigation or trial.

390. In any case in which an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court of Session, as the case may be, if the offence be bailable, may release such person on sufficient security being given that he shall be properly taken care of, and shall be prevented

Form o ntence.

from doing injury to himself or to any other person, and for his appearance when required. If the offence be not bailable, or if the required bail be not given, the accused person shall be kept in safe custody in such place as the local Government to which the case shall be reported shall direct.

Resumption of investigation of case.

391. Whenever any investigation or trial of a case shall be postponed under Section 388 or Section 389 of this Act, the Magistrate or Court of Session, as the case may be, may at any time resume the investigation or trial, and require the accused person, if detained in custody, to be brought before such Magistrate or Court, or if the accused person has been released on security, may require his appearance. Until such investigation or trial is completed, the case shall be considered as pending before the Magistrate or Court of Session, and shall be included in any register of pending cases kept by such Magistrate or Court. The surety of such person shall be bound at any time to produce him to any Officer whom the Magistrate or Court of Session may appoint to inspect him, and the certificate of such Officer shall have the same effect as the certificate of an Inspector of Jails or the Visitors of Lunatic Asylums granted under Section 395 of this Act.

Procedure on accused appearing or being brought before Magistrate or Court of Session.

392. If, when the accused person appears or is again brought before the Magistrate or the Court of Session, as the case may be, it shall appear to such Magistrate or Court that the accused person is in a fit state of mind to make his defence, the investigation shall proceed, or the accused person shall be put on his trial as the case may require. If it shall appear that the accused person is still of unsound mind and incapable of making his defence, the Magistrate or Court of Session shall again act according to the provisions of Section 388 or Section 389 of this Act.

Procedure in case of acquittal of accused person on the ground of being lunatic.

393. Whenever any person is acquitted, upon the ground that at the time at which he is charged to have committed an offence he was by reason of unsoundness of mind incapable of knowing the nature of the act charged or that he was doing what was wrong or contrary to law, the finding shall state specially whether he committed the act or not.

Person so acquitted to the disposed of by Magistrate or Court of Session for safe custody &c.

394. Whenever such finding shall state that the accused person committed the act charged, the Magistrate or Court of Session before whom the trial was held, shall, if the act charged would, but for the incapacity found, have amounted to an offence, order such person to be kept in safe custody, in such place and manner as to the Magistrate or Court of Session shall seem fit, and shall report the case for the order of the local Government. The local Government may order such person to be kept in safe custody in a Lunatic Asylum or other suitable place of safe custody.

Lunatics to be visited and reported on by Inspector of Jails, &c.

395. *Clause* 1. When any person is confined under the provisions of Section 390 or Section 394 of this Act, it shall be lawful for the Inspector of Jails if such person is confined in a Jail, or for the Visitors of Lunatic Asylums or any two of them if such person is confined in a Lunatic Asylum, to visit such person in order to ascertain his state of mind; and such person shall be visited once at least in every twelve months by such Inspector of Jails or by two of such Visitors as aforesaid, who shall make a special report as to the state of mind of such person.

Clause. 2, If such person is confined under Section 390 of this Act, and such Inspector of Jails or such Visitors of Lunatic Asylums as aforesaid shall report that in his or their opinion such person is capable of making his defence, such person shall be taken before the Magistrate or Court of Session, as the case may be, at such time as such Magistrate or Court of Session shall appoint; and such Magistrate or Court shall deal with such person under the provisions of Section 392, and may receive as evidence the certificate of such Inspector of Jails or such Visitors of Lunatic Asylums as aforesaid.

Clause. 3. If such person shall be confined under the provisions of Section 394 of this Act, and such Inspector of Jails or such Visitors of Lunatic Asylums as aforesaid shall certify that in his or their judgment such person may be discharged without danger of his doing injury to himself or to any other person, the local Government shall thereupon either order his discharge or order such person to be transferred to a public Lunatic Asylum if he has not been already sent to such an Asylum, and shall within six months appoint a commission consisting of a Judicial Officer not below the grade of a Sessions Judge, and two Medical Officers whereof the Chief Medical Officer attached to the Lunatic Asylum shall be one. The said commission shall make formal enquiry into the state of of mind of such person, taking such evidence as shall be necessary; and if they consider that he can be set at liberty without danger to himself or to any other person, he shall be discharged.

Person under sentence of imprisonment ppearing to be of un-

396. Whenever it shall appear to the local Government that any person, imprisoned by the sentence of any Court or Magistrate, is of unsound mind, the local Government, by an order which shall set forth the grounds of belief that

such prisoner is of unsound mind, may order the removal of such prisoner to a Lunatic Asylum, there to be kept and treated as the local Government shall direct during the remainder of the term of imprisonment ordered by the sentence, or if it shall be certified by a Medical Officer that it is necessary for the safety of the prisoner or others that he should be detained under care and treatment, then until he shall be discharged according to law; and when it shall appear to the local Government that such person has become of sound mind, the local Government, by an order directed to the person having charge of him, shall remand such person to the custody from which he was removed, if then still liable to be kept in custody, or if not, shall order him to be discharged out of custody. The provisions of Section IX of Act XXXVI of 1858 *(relating to Lunatic Asylums)* shall apply to persons confined in a Lunatic Asylum under this Section after the expiration of the imprisonment ordered by the sentence. The period during which a person shall be confined in a Lunatic Asylum shall be reckoned as part of the period of imprisonment ordered by the sentence.

unsound mind, m be removed to Lunati Asylum, and kept til he shall again become of sound mind, &c.

397. Whenever any relative or friend of any person detained under the provisions of Section 394 of this Act is desirous that such person shall be delivered over to his care and custody, the local Government, upon the application of such relative or friend and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may make an order that the person so detained may be delivered to such relative or friend. Whenever such person shall be so delivered over, it shall be upon condition that he shall be subject to the inspection of such Officer as the local Government shall think necessary to appoint, and at such times as such Government shall direct. The provisions of Section 395 shall apply to persons detained under the provisions of this Section, and the certificate of the Inspecting Officer appointed under this Section shall have the same effect as a certificate of an Inspector of Jails or the Visitors of Lunatic Asylums under the said Section.

When lunatic may be delivered over to the care and custody of a relative or friend.

CHAPTER XXVIII.

SUDDER COURT AS A COURT OF REFERENCE.

398.* A case referred, to a Sudder Court by a Court of Session for confirmation of a sentence of death, shall be heard by a Court constituted by two or more Judges of such Sudder Court.

Constitution of Court for hearing case referred for confirmation of sentence.

399. In any case so referred, the Sudder Court may either confirm the sentence or pass any other sentence warranted by law, or may annul the conviction and order a new trial on the same or an amended charge. If the case shall have been tried by the Court of Session with the aid of Assessors, it shall further be competent to the Sudder Court to acquit the accused person and order his discharge.

Power of Sudder Court to confirm, reverse, &c., sentence.

400. If the case so referred shall have been tried by the Court of Session with the aid of Assessors, it shall be competent to the Sudder Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, to direct such enquiry to be made, or such additional evidence to be taken. The result of the further enquiry and the additional evidence shall be certified to the Sudder Court, and the Sudder Court shall thereupon proceed to pass judgment of acquittal or such sentence as to the Court shall seem right.

Competence of Sudder Court to direct further enquiry, &c.

401.* In every case so referred to the Sudder Court, the confirmation of the sentence or any new sentence or order passed by the Sudder Court shall be signed by at least two Judges of the Court.

Confirmation or new sentence must be signed by two Judges.

CHAPTER XXIX.

SUDDER COURT AS A COURT OF REVISION.

402. The Sudder Court, in any case tried by the Court of Session in which, upon a review of the abstract statement or calendar of prisoners punished without reference, it shall appear that the sentence passed is one which cannot lawfully be passed on a person convicted of the offence as stated in the abstract statement or calendar, shall annul the sentence, and shall certify to the Court of Session the sentence which may lawfully be passed for such offence; and thereupon the Court of Session shall pass a new sentence according to law, and shall amend the record in accordance therewith.

Revision in cases of illegal sentence.

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* *Vide* Act XV. 1862, Section 2.

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Revision of trials.

403. The Sudder Court, in any case tried before a Court of Session in which, upon a review of the abstract statement or calendar of prisoners punished without reference, it shall appear that there has been error in the decision of the Court of Session on a point of law, or that a point of law should be considered by the Sudder Court, may call for the record, or such portion thereof as it may deem necessary, together with a report of the Judge's direction to the Jury, if the case have been tried by a Jury, and upon reviewing the depositions of the witnesses, the direction of the Judge, and the conviction, may determine any point of law arising out of the case, and thereupon pass such order as to the Sudder Court shall seem right.

General power of revision by the Sudder Court.

404. The Sudder Court may, on the report of a Court of Session or of a Magistrate, or whenever it thinks fit, call for the record of any criminal trial or the record of any judicial proceeding of a Criminal Court, other than a criminal trial, in any Court within its jurisdiction, in which it shall appear to it that there has been error in the decision on a point of law, or that a point of law should be considered by the Sudder Court, and may determine any point of law arising out of the case, and thereupon pass such order as to the Sudder Court shall seem right.

Sudder Court empowered to call for and examine records of Court of Session.

405. It shall be lawful for the Sudder Court to call for and examine the record of any case tried by any Court of Session for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed, and as to the regularity of the proceedings of such Court. If it appear to the Sudder Court that the sentence passed is too severe, the Sudder Court may pass any mitigated sentence warranted by law. If the Sudder Court shall be of opinion that the sentence or order is contrary to law, the Sudder Court shall reverse the sentence or order and pass such judgment, sentence, or order as to the Court shall seem right, or, if it deem necessary, may order a new trial.

Proceedings of a case revised by Sudder Court to be certified to Court in which conviction was had.

Proviso.

406. Whenever a case shall be revised by the Sudder Court under this Chapter, the Sudder Court shall certify its decision or order to the Court in which the conviction was had or by which the order was passed, and such Court shall thereupon make such orders as are conformable to the decision of the Sudder Court, and if necessary amend the record in accordance therewith. Provided that, in any case which shall be revised by the Sudder Court under this Chapter, it shall not be competent to the Sudder Court to reverse the verdict of the Jury, or, except as provided in this Chapter, to alter or reverse the sentence or order of the Court below.

CHAPTER XXX.

APPEALS.

No appeal in cases of acquittal.

407. There shall be no appeal from a judgment of acquittal passed in any Criminal Court.

Appeals in what cases in trials by Jury or with Assessors.

408. Any person convicted on a trial held by a Court of Session may appeal to the Sudder Court. If the conviction was in a trial held with the aid of Assessors, the appeal may be on a matter of fact as well as on a matter of law. If the conviction was on a trial by Jury, the appeal shall be admissible on a matter of law only.

Appeals from Magistrates.

409. Any person convicted on a trial held by the Magistrate of the District or other Officer exercising the powers of a Magistrate, or required by such Magistrate or other Officer under Section 295 or Section 296 of this Act to give security for good behaviour, may appeal to the Court of Session to which such Magistrate or other Officer is subordinate.

Appeals from Justices of the Peace.

410. Any person convicted and sentenced by any Justice of the Peace exercising jurisdiction under the Statute 53 Gorge III, *c.* 155, *s.* 105, or under Act VII of 1853 (*to extend the jurisdiction of Magistrates under the 53 George III, c. 155, s. 105, in cases of assault, forcible entries, and other injuries accompanied with force, not being felonies*), or under Section 163 or 165 of this Act, may appeal to the Court of Session having jurisdiction at the place at which the appeal would have been heard had the sentence been passed by a Magistrate subordinate to such Court. Cases appealed under this Section shall not be afterwards liable to revision by means of a writ of *certiorari*. Provided that nothing in this Section shall be held to take away the power of quashing any conviction by means of a writ of *certiorari* in any other case than when there has been such an appeal as aforesaid.

No appeal in certain criminal cases.

411. In all cases in which a Court of Session or the Magistrate of a District or other Officer exercising the powers of a Magistrate shall pass a sentence of imprisonment not exceeding one month, or of a fine not exceeding Fifty Rupees, no appeal shall be allowed.

412. Any person convicted on a trial held by an Officer exercising powers less than those of a Magistrate, may appeal to the Magistrate of the District or other Officer exercising the powers of a Magistrate who shall have been empowered by the Government to hear such appeals.

Appeals from Officers exercising powers less than those of a Magistrate.

413. Any person convicted by any Civil Court under Chapter X of this Act, may appeal to the Court to which decress or orders made in such Court are ordinarily appealable, subject to the rules provided in Sections 416, 417, 418, 419, and 421 of this Act. Petitions of appeal under this Section, if presented to any District Court, must be presented within thirty days immediately following and exclusive of the day on which the sentence or order appealed against is passed. Petitions of appeal to the Sudder Court must be presented within sixty days calculated as above. The Sudder and District Courts may admit an appeal after the time herein provided on sufficient cause shown.

Appeals from orders under Chapter X.

414. Unless otherwise provided by this Act or by any other law for the time being in force, no appeal shall lie from any order or sentence of a Criminal Court.

Unless otherwise provided, no appeal to lie from any order or sentence of a Criminal Court.

415. Petitions of appeal to the Court of Session or to any Court subordinate to the Court of Session must be presented within thirty days immediately following and exclusive of the day on which the sentence or order appealed against is passed. Petitions of appeal to the Sudder Court must be presented within sixty days calculated as above. The Sudder Court and the Court of Session may admit an appeal after the time herein provided on sufficient cause shown.

Period of presenting petitions of appeal.

416, Every petition of appeal shall be accompanied by a copy of the sentence or order appealed against.

Copy of judgment to accompany petition.

417. It shall be competent to the appellate Court to reject the appeal if, on a perusal of the petition of appeal and the copy of the sentence or order appealed against, and after hearing the appellant or his counsel or agent if they appear, the Court shall consider that there is no sufficient ground for questioning the correctness of the decision or for interfering with the sentence or order appealed against. Before rejecting the appeal, the Court may call for and peruse any part of the proceedings of the lower Court, but shall not be bound so to do.

Appellate Court may reject petition of appeal.

418. If the party appealing be in Jail in pursuance of the sentence or order appealed against, he shall be at liberty to present his petition of appeal and the copy of the sentence or order appealed against, to the Magistrate or other Officer in charge of the jail, who shall thereupon forward the petition to the proper appellate authority.

Appeal by party in Jail.

419. The Appellate Court, after perusing the proceedings of the lower Court, and after hearing the plaintiff or his counsel or agent if they appear, may alter or reverse the finding and sentence or order of such Court, but not so as to enhance any punishment that shall have been awarded.

Appellate Court may call for the proceedings of lower Court.

420. Repealed by Act VIII. 1869.

421. In any case in which an appeal is allowed, the Appellate Court may, pending the appeal, order that the sentence be suspended, and if the appellant be in confinement for an offence which is bailable he may order that he be released on bail.

Appellate Court may suspend sentence pending appeal and release defendant on bail.

422. In any case in which an appeal has been allowed, it shall be competent to the Appellate Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused to be necessary, to direct such enquiry to be made and additional evidence to be taken. The result of the further enquiry and the additional evidence shall be certified to the Appellate Court, and the Appellate Court shall thereupon proceed to pass such Judgment, sentence, or order as to such Court shall seem right.

Appellate Court may direct further enquiry, &c.

423. No finding by a Court of the offence of dishonest misappropriation of property under Section 403 of the Indian Penal Code, or of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of criminal breach of trust under Section 405 of the said Code, or of criminal breach of trust by a carrier, wharfinger or warehouse-keeper under Section 407 of the said Code, or of criminal breach of trust, as a clerk or servant under Section 408 of the said Code, shall be liable to be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was the offence of theft under Section 378 of the said Code, or the offence of theft in a building tent or vessel under Section 380 of the said Code, or the offence of theft as a clerk or servant of property in the possession of his master under Section 381 of the said Code.

Finding of dishonest misappropriation not reversible on the ground of the offence proved being theft.

424. No finding by a Court of the offence of theft under the said Section 378 of the Indian Penal Code, or of theft in a building, tent or vessel under

Finding of theft not reversible on th

ground of the offence proved being dishonest misappropriation.

the said Section 380, or of theft as a clerk or servant of property in the possession of his master under the said Section 381, shall be liable to be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was the offence of dishonest misappropriation of property under the said Section 403, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under the said Section 404, or the offence of such dishonest misappropriation under the said Section, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under the said Section 405, or the offence of criminal breach of trust as a carrier, wharfinger or warehouse-keeper under the said Section 407, or the offence of criminal breach of trust as a clerk or servant under the said Section 408.

Saving of power of Appellate Court to reduce punishment awarded under last two Sections.

425. Provided that nothing in the last two Sections shall preclude the Appellate Court in any case mentioned therein from reducing the punishment awarded by a lower Court in such case, within the limits prescribed for the offence which such Appellate Court shall consider to have been proved by the evidence against the accused person.

Finding or sentence not ordinarily reversible by reason of error or defect in the charge or the proceedings.

426. No finding or sentence passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error or defect either in the charge or in the proceedings on trial, unless the accused person shall have been sentenced to a larger amount of punishment than could be awarded for the offence of which, in the judgment of the Appellate Court, the accused person ought upon the evidence to have been found guilty, or unless, in the judgment of the Appellate Court, the accused person shall have been prejudiced by such error or defect; and in case the accused person shall have been sentenced to a larger amount of punishment than could have been awarded for the offence which, in the Judgment of the Appellate Court, is proved by the evidence, the Appellate Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

Appellate Court may reduce punishment.

Court of Appeal how to proceed in case of conviction by a Court not having jurisdiction.

427. When a Court subordinate to a Court of Session shall have convicted a person of an offence not triable by such Court, it shall be competent to the Appellate Court to annul the conviction and sentence of such Court, and to direct the trial of the case by a Court of competent jurisdiction.

Finality of orders on appeal.

428. Except as provided in Section 405 of this Act, sentences and orders passed by an Appellate Court upon appeal shall be final.

CHAPTER XXXI.

GENERAL RULES.

In what language sentence to be written.

429. Every sentence or final order of a Criminal Court, together with the reasons for making or passing the same, shall be written in the vernacular language of the presiding Officer, and shall be dated and signed by such Officer at the time of his making or passing the same, and the original shall be filed with the record of proceedings, and a translation thereof, where the original is recorded in a different language from that in ordinary use in proceedings before such Officer, shall be incorporated in the record of the sentence or order.

When it may be written in English.

430. If the vernacular language of the presiding Officer be not English, and the Officer be sufficiently conversant with the English language to be able to write the sentence or final order in a clear and intelligible manner in that language, and prefer to write the same in that language, the sentence or final order may be written in English.

Employment of Interpreter.

431. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, such interpreter shall be sworn in the manner provided for witnesses by any law for the time being in force, to interpret truly such evidence or statement, and such interpreter shall be bound to state the truth in his interpretation of such evidence or statement.

Right of accused to be defended by Counsel.

432. Every person charged before any Criminal Court with an offence may of right be defended by Counsel or authorized agent.

Confinement of youthful offenders in reformatories.

433. When any person under the age of sixteen years shall be sentenced by any Magistrate or Court of Session to imprisonment for any offence, it shall be lawful for such Magistrate or Court to direct that such offender, instead of being imprisoned in the Criminal Jail, shall be confined in any reformatory which may be recognised by the local Government as a fit place for confinement, in which there may be means of suitable discipline and of training in some branch of useful industry, and which shall be kept by a person willing to obey such rules

as the Government may direct with regard to the discipline and training of persons confined therein. All persons confined under this Section shall be subject to the rules so laid down by Government.

Powers of Court of Session and Magistrate to regulate the proceedings of Subordinate Courts.

434. It shall be at all times lawful for a Court of Session and for a Magistrate to call for and examine the record of any Court immediately subordinate to such Court or Magistrate for the purpose of satisfying themselves as to the legality of any sentence or order passed, and as to the regularity of the proceedings of such subordinate Court. If the Court of Session or Magistrate shall be of opinion that the sentence or order is contrary to law, the Court or Magistrate shall refer the proceedings for the orders of the Sudder Court. It shall not be lawful for any other Court than the Sudder Court to alter any sentence or order of any subordinate Court except upon appeal by parties concerned duly made according to the provisions of Chapter XXX of this Act.

When Court of Session may order commitment of party discharged by Magistrate.

435. In the case of offences not triable by the Magistrate, the Court of Session may order the commitment to the Court of Session of any accused person who may have been discharged by the Magistrate. In the case of such offences the Court of Session may order an enquiry into any complaint which the Magistrate may have dismissed without enquiry.

Power of Court of Session to direct bail.

436. The Court of Session may direct that any accused person shall be admitted to bail or that the bail required by a Magistrate be reduced.

Deposit may be made instead of bail.

437. When any person is required by any Criminal Court to give bail, it shall be lawful to such Court to permit such person to deposit a sum of money or Government promissory notes to such amount as such Court may fix in lieu of such bail.

Expenses of prosecutors and witnesses.

438. It shall be lawful for the Court of Session, in any case in which it shall appear proper, to order payment by or on the part of Government of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

No trial, &c., to be set aside for irregularity of procedure.

439. No trial held in any Criminal Court shall be set aside, and no judgment passed by any Criminal Court shall be reversed either on appeal or otherwise for any irregularity in the proceedings of the trial, unless such irregularity have occasioned a failure of justice.

Copy of sentence or order to be furnished on application.

440. A copy of the final sentence or order passed by any Criminal Court shall be furnished without delay on the application of any party to the case in which such sentence or order was passed. Such copy shall be made at the expense of the party applying for it, unless such party is in confinement under the sentence or order and is desirous of appealing against the same, or unless the Court shall for any special reason see fit to grant such copy free of expense.

Act not to take effect in Presidency Towns or Straits Settlement.

441. Nothing in this Act shall be held to alter or affect the jurisdiction or [illegible]edure of the Chief Commissioner of Police, the Police Magistrates, or the [illegible]ce of the Towns of Calcutta, Madras, and Bombay and the Settlement of [illegible]nce of Wales' Island, Singapore, and Malacca, except so far as this Act ex[illegible]ssly provides for the same.

Saving of jurisdiction and procedure of Heads of Villages, Village Police Officers, &c.

442. Nothing in this Act shall be held to alter or affect the jurisdiction, duties, or procedure of landholders specially empowered according to law in the Presidency of Bombay, nor to alter or affect the jurisdiction or procedure of the Heads of Villages in the Presidency of Fort Saint George, nor to alter or affect the jurisdiction, duties, or procedure of Village Police Officers in the Presidency of Bombay, nor to alter or affect the jurisdiction or procedure of any Officer duly Buthorized and appointed under the laws in force in the Presidencies of Fort Saint George and Bombay respectively, for the trial of petty offences in Military [illegible]aazars at Cantonments and Stations occupied by the Troops of those Presidencies respectively.

Sudder Court to make general rules for regulating proceedings, &c.

443. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of that Court and of all Criminal [illegible]urts subordinate to it, and also to frame forms (when not prescribed by this [illegible]t) for every proceeding in the said Courts for which it shall think necessary [illegible]t a form should be provided, for keeping all books, entries, and accounts to be [illegible]t in such Courts, and for the preparation and transmission of any calendars [illegible]tatements to be prepared and submitted by such Courts, and from time to time [illegible]ter any such rule or form, provided that such rules and forms be not incon[illegible]nt with the provisions of this Act or of any other law in force. Any rules [illegible]ed by the Court under this Section shall be published in the *Official Gazette*.

Procedure of this Act to be followed in miscellaneous criminal cases and Proceedings.

444. The procedure prescribed by this Act shall be followed, so far as it [illegible]e, in all miscellaneous criminal cases and proceedings which, after the pas[illegible]f this Act, shall be instituted in any Court.

Commencement and operation of Act.

445.* This Act shall come into operation in the Presidencies of Bengal, Madras, and Bombay on the 1st day of January 1862, but shall not take effect in any part of the territories in British India not subject to the General Regulations of Bengal, Madras, or Bombay, *until the same shall be extended thereto by the Governor-General of India in Council or by the local Government to which such territory is subordinate, and until such extension shall have been notified in the Gazette.*

APPENDIX OF FORMS.

A

FORM OF SUMMONS (*Section 69.*)

To A. B., of

Whereas your attendance is necessary to answer to a charge of (*state shortly the offence charged*): You are hereby required to appear in person or by authorized Agent, as the case may be, before the [Magistrate] of on the day of Herein fall not.

(*Signature and Seal.*)

Dated the day of

B.

FORM OF WARRANT (*Section 76.*)

To (*name and designation of the person or persons who are to execute the warrant*).

Whereas of stands charged with the offence of (*state the offence*). You are hereby directed to apprehend the said and to produce him before me. Herein fail not.

(*Signature and Seal.*)

This warrant may be endorsed as follows:—

If the said shall give bail, himself in the sum of with one surety in the sum of (or two sureties each in the sum of) to appear before me on the day of he may be released.

Signature.

C.

FORM OF WARRANT OF COMMITMENT.

(*Section 222.*)

To Jailor of

Whereas of is charged with (*state the offence in respect of which the prisoner is charged; and the authority of the committing Officer*): You are hereby required to receive the said into your custody in the said Jail of and him there safely to keep until he shall be thence delivered by due course of law.

Dated the day

D.

FORM OF BOND TO KEEP THE PEACE.

(*Section 284.*)

Whereas I inhabitant of have been called upo to enter into a bond to keep the peace for the term of , I hereby bind myself not to commit a breach of the peace or do any act that m probably occasion a breach of the peace during the said term; and in case of m making default therein, I bind myself to forfeit to her Majesty the sum of Rupees,

Dated

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* *Vide* Act XV. 1862, Sec. I.

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above said that he shall not commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term ; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of Rupees.

Dated

E.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE.

(*Sections* 158 and 232.)

I of do hereby bind myself to appear at in the Court of at o'clock on the day of next, and then and there to prosecute (or, as the case may be, to prosecute and give evidence or to give evidence) in the matter of a charge of against one A. B ; and in case of my making defualt herein, I bind myself to forfeit to Her Majesty the sum of Rupees.

F

FORM OF BOND FOR BEHAVIOUR (*Section* 300.)

Whereas I inhabitant have been called to enter into a bond to be of good behaviour to Her Majesty the Queen, and to all her subjects, for the term of , I hereby bind myself to be of good behaviour to Her Majesty and to all her subjects during the said term and in case of my making default therein I bind myself to forfeit to Her Majesty the sum of Rupees.
Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above said. that he shall be of good behaviour to Her Majesty and to all her subjects during the said term ; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of Rupees.

ACT No. XXVII. OF 1861.

(*Received the assent of the Governor-General on the 7th Sept. 1861.*)

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1. *Land vested absolutely in Government.*
2. *Appointment of Officers to superintend management of land, &c.*
3. *Administration of Civil and Criminal Justice.*
4. *Appeal.*
5. *Revision and confirmation of sentences.*
6. *Penalty for Master anchoring his vessel for the purpose of landing of passengers or goods at unauthorized Port.*
7. *Penalty for landing at unauthorized Port.*
8. *Exception from provisions of last two Sections.*
9. *Master of vessel to deliver to Conservator list of crew, &c. Penalty.*
10. *Penalty for any person landing without license.*
11. *Penalty for landing goods without license.*
12. *Penalty for Master omitting to furnish the Conservator with a list of his w &c. before the departure of his vessel.*
13. *Inspection of vessels. Penalty.*
14. *Penalty for receiving on board a convict for the purpose of escape.*
15. *License for residing at the Settlement.*
16. *Conditions of license to be determined by Governor-General in Council.*
17. *Imposition and recovery of forfeitures.*

An Act to regulate the administration of Port Blair and other Settlement in the Andaman Islands.

WHEREAS the Settlement of Port Blair including the territory thereto attached, within the Andaman Group of Islands, is occupied as a Penal Settlement for convicts sentenced by the Courts of British India to transportation, and it is expedient to provide for the admission and residence of other persons than convicts within the said Settlement; and whereas it is expedient to provide in like manner for any other Settlement that may be formed in the said Island, as well as for the occupation of land and the general administration of such Settlement; It is enacted as follows:—

Land vested absolutely in Government.

I. The land of the Settlement of Port Blair, and of any other Settlement that may hereafter be found by the Government of India in the Andaman Group of Islands, is vested absolutely in Her Majesty the Queen, and such land shall not be sold, leased, or otherwise transferred to or be acquired by any person except by and through an instrument in writing executed by the Superintendent of the Settlement or such other authority as the Governor-General of India in Council may appoint, and it shall be competent to such Superintendent or other authority to eject any person from any land occupied or in any way possessed by such person which he shall not have acquired in the manner prescribed in this Section.

Appointment of Officers to superintend management of land, &c.

II. The Governor-General of India in council may appoint one or more Officers to superintend the management of the land of the Settlement of port Blair and of any other Settlement as aforesaid, and the realization of any Revenue, rent, or other dues that may be payable on account of such land, and any Officer so appointed shall, in the matters aforesaid, be subject to the direction and control of the Governor-General of India in Council and be guided by such instructions as the Governor-General of India in Council may from time to time issue.

Administration of Civil and Criminal Justice.

III. The Administration of Civil and Criminal justice within the Settlement of Port Blair and of any other Settlement as aforesaid shall be vested in such Officer or Officers, as the Governor-General of India in Council may for the purpose of tribunals of first instance or of reference and appeal, appoint and the Officer or Officers so appointed shall in matters aforesaid be subject to the direction and control of the Governor-General of India in Council, and be guided by such instructions as the Governor-General of India in Council may from time to time issue.

Appeal.

IV. It shall be lawful for the Governor-General of India in Council to declare in what cases the order, Judgment, or sentence made by any Officer appointed as provided in the last preceding Section shall be final, and to direct that from any such order, Judgment, or sentence an appeal may be heard and decided by any Court established within British India and beyond the limits of the Settlement of Port Blair.

Revision and confirmation of sentences.

V. It shall be lawful to the Governor-General of India in Council to empower any Court, established within British India and beyond the limits of the said Andaman Group of Islands, to confirm and modify or reverse any order or sentence passed in any criminal trial by any Officer within such Settlement, and no sentence of death passed by any Officer within any Settlement in the said Group of Islands shall be carried into execution until it be confirmed by the Governor-General of India in Council, or by such Court established within British India as aforesaid, as the Governor-General of India in Council may for that purpose appoint.

Penalty for Master anchoring his vessel for the purpose of landing of passengers or goods at unauthorized Port.

VI. It shall not be lawful for the Master or Commander of any vessel to land or to anchor such vessel for the purpose of landing any person or any goods or things at any place on the Coast of the Settlement of Port Blair or any other Settlement as aforesaid, except at such place as may be declared a Port under the provisions of Act XXII of 1855 (*for the regulation of Ports and Port-dues*); and any Master or Commander so offending shall forfeit and pay a sum not exceeding One Thousand Rupees.

Penalty for landing at unauthorized Port.

VII. Any person who shall land from any vessel or boat at any place on the Coast of the Settlement of Port Blair or of any other Settlement as aforesai[illegible] I[illegible] cept at such place as shall be within the limits of any Port declared under t[illegible] ay visions of the said Act XXII of 1855, shall forfeit and pay a sum not ex[illegible] my Five Hundred Rupees, and any goods or thing landed from any vessel or b[illegible] cept within such limits, shall be liable to be seized by any person in the [illegible] ment of Government within the Settlement, and may be confiscated if th[illegible] intendent or other Officer aforesaid shall so direct.

Exception from provisions of last two Sections.

VIII. The provisions of the last two preceding Sections shall not a[illegible] any vessel or boat the property of Her Majesty, or used for any public p[illegible] or to any person, goods, or thing landed from such vessel or boat, nor in [illegible] other case when the Sections aforesaid shall have been infringed from stre[illegible] weather or other unavoidable circumstances.

IX. The Master or Commander of any vessel, which shall enter any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, shall be bound to deliver to the Conservator of the Port, within twenty-four hours from the time of entering, a list of the crew and passengers on board of such vessel as well as a Manifest of the Cargo carried by such vessel; and any Master or Commander failing to deliver such list and Manifest within such period, shall forfeit and pay a sum not exceeding Five Hundred Rupees.

Master of vessel to deliver to Conservator list of crew, &c.

Penalty.

X. No person shall land within the limits of any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, except under a license granted hereinafter provided or under the written permission of the Conservator of the Port or of the Superintendent of the Settlement or other authority appointed as provided in Section I of this Act, and any person so landing without such license or permission shall forfeit and pay a sum not exceeding Five Hundred Rupees.

Penalty for any person landing without license.

No goods or other thing shall be landed within the limits of any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, except under written permission of the Conservator of the Port or other Officer appointed in that behalf; and any goods or thing landed without such permission shall be liable to be seized by any person in the employment of Government in the Settlement, and may be confiscated if the Superintendent or other authority aforesaid shall so direct.

Penalty for landing goods without license.

Every Master or Commander of a vessel shall, twenty-four hours at least before the departure of such vessel from any Port of the Settlement of Port Blair, or of any other Settlement as aforesaid, furnish to the Conservator of such Port, a list of the crew and other persons who are about to sale in such vessel, specially designating any person (if any) who shall not have arrived at the Settlement in such vessel; and every Master or Commander who shall fail to furnish such list shall forfeit and pay a sum not exceeding One Thousand Rupees. If any such Master or Commander shall, after furnishing the list herein mentioned, take or receive on board his vessel any person not mentioned or included in such list, for the purpose of taking him from such Port, without forthwith informing the Conservator of such Port of the name of such person, he shall be liable to forfeit and pay a sum of Five Hundred Rupees for every such person so taken or received on board.

Penalty for Master omitting to furnish the Conservator with a list of his crew &c. before the departure of his vessel.

XIII. Every Master or Commander of any vessel anchored in, or about to depart from, any Port of the Settlement of Port Blair or of any other Settlement as aforesaid, shall be bound, on the requisition of the Conservator of the Port or other person acting under the instructions of the Superintendent of the Port or other Officer as aforesaid, to permit such Conservator or other person to inspect such vessel and to produce before such Conservator or other person any person who may be on board of such vessel. If any Master or Commander shall fail to conform to any of the provisions of this Section, he shall forfeit and pay a sum not exceeding One Thousand Rupees.

Inspection of vessels.

XIV. If the Master or Commander of any vessel or other person shall wilfully receive on board such vessel or on any boat any convict undergoing a sentence of transportation, for the purpose of conveying the same from the Settlement of Port Blair or any other Settlement as aforesaid without the knowledge or authority of the Superintendent or other Officer aforesaid, such Master or Commander or other person shall forfeit and pay a sum not exceeding One Thousand Rupees, besides being liable to any punishment that may be awarded on conviction of any offence committed by him under the provisions of the Indian Penal Code.

Penalty for receiving on board a convict for the purpose of escape.

XV. No person shall reside at the Settlement of Port Blair or any other Settlement as aforesaid beyond the period of one month, or after the departure of the vessel by which he was conveyed to such Settlement, except he shall hold a license granted by some person empowered in that behalf by the Governor-General of India in Council; and any person who shall so reside without such license shall forfeit and pay a sum not exceeding Five Hundred Rupees. Such person may be required to remove himself from the Settlement in which he shall be within such time as the Superintendent or other Officer appointed as provided in Section I of this Act shall direct, and if he shall fail so to do he shall forfeit and pay a sum not exceeding Five Hundred Rupees and may further be shipped and removed from the Settlement by any vessel that the Superintendent or other Officer aforesaid shall appoint for that purpose.

License for residing at the Settlement.

XVI. The Governor-General of India in Council may determine the conditions upon which a license to reside in the Settlement of Port Blair or any other Settlement as aforesaid shall be granted. The conditions so determined shall be inserted in the license: and if the holder of any such license shall fail to conform to, or shall infringe, any of the conditions therein specified, he shall forfeit

Conditions of license to be determined by Governor-General in Council.

and pay any sum specified therein as a forfeiture payable for any neglect or infringement of such conditions. Such person may also be required to remove himself from the Settlement in which he shall be, and his failure so to do may be enforced as provided in the last preceding Section.

Imposition and recovery of forfeitures.

XVII. The forfeitures incurred under this Act may be imposed by any Officer exercising the authority of a Magistrate within the Settlement of Port Blair, and the payment of the sum may be enforced by distress and sale of the goods and chattels of the offender, or in the case of the Master or Commander of a vessel, by the distress and sale of such vessel and the tackle, apparel, and furniture thereof: and in default of the recovery of any sum forfeited payable under this Act, the offender may be imprisoned in the Civil Jail for period of one month if such sum be not sooner paid.

ACT No. XXX OF 1861.

(Received the assent of the Governor-General on the 7th September

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An Act to enable the Bengal Military Orphan Society to register under Act XXI of 1860 (for the Registration of Literary, Scientific, and Charitable Societies.)

WHEREAS it is expedient to enable the Bengal Military Orphan Society to register under Act XXI of 1860 (*for the Registration of Literary, Scientific, and Charitable Societies*); It is enacted as follows :—

In the case of the Bengal Military Orphan Society, the assent to the Society being registered under the said Act XXI of 1860 of three-fifths of the Members present personally or by proxy at some general meeting specially convened, shall not be required, but the said Bengal Military Orphan Society may be registered under the said Act by the Governor, Deputy Governor and Managers thereof for the time being, without such assent, anything in the said Act to the contrary notwithstanding, and such Registration shall have the same effect as if it had been made in conformity with the provisions of the said Act XXI of 1860.

ACT No. XXXI OF 1861. *

(Received the assent of the Governor-General on the 7th September 1861.)

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1. *Unlicensed manufacturing &c., of Saltpetre prohibited.*
2. *Unlicensed manufacturer prohibited from separating &c. salt educed in the manufacture of Saltpetre.*
3. *Duration and form of license.*
4. *Fees for licenses.*
5. *Salt educed in the manufacture of Saltpetre liable to full Government Duty.*
6. *Penalty.*
7. *Composition of Duties.*
8. *Manufactories in the North-Western Provinces to be within Customs jurisdiction. Acts XIV of 1843 and XXXVI of 1855 applicable.*
9. *In other parts of India to which this Act is extended, who are to exercise the powers conferred by the above Acts on Collectors &c.*
10. *Local Government may frame rules.*
11. *To what substances &c. this Act is applicable.*
12. *Levy of forfeitures and penalties by distress.*
13. *Cancellation of license and destruction of works of offenders.*
14. *Procedure until return is made to warrant of distress.*
15. *Imprisonment if distress not sufficient.*
16. *Levy of fines from European British Subjects.*
17. *Act not to affect provisions of other laws relating to licenses.*
18. *Commencement and operation of Act.*

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* *Vide* Act XXXIII. of 1867.

An Act to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof.

WHEREAS it is expedient to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof; It is enacted as follows :—

Unlicensed manufacturing &c. of Saltpetre prohibited.

I. From the time when this Act shall come into operation it shall not be lawful for any person in the North-Western Provinces of the Presidency of Bengal, or in any other part of the British territories in India to which this Act shall be extended in the manner hereinafter provided, to manufacture or refine Saltpetre, or to separate or purify any Salt which may be educed in the process of manufacturing or refining Saltpetre, except under a license from the local Government. The license may be granted either for the manufacture of Saltpetre alone, or for the manufacture and refining of Saltpetre and the separation and purification of Salt educed in the process of such manufacturing and refining.

Unlicensed manufacturer prohibited from separating &c., Salt educed in the manufacture of Saltpetre.

II. It shall not be lawful for any manufacturer of Saltpetre, not being licensed to manufacture and refine Saltpetre and to separate and purify the Salt educed in the process of the manufacture of Saltpetre, to separate any Salt from any earth or other substance yielding Salt.

Duration and form of license.

III. Every license granted under this Act shall have effect for one year from the date of such license and contain the name of the proprietor of the manufactory or manufactory and refinery of Saltpetre licensed, and of the locality of such manufactory or refinery.

Fees for licenses.

IV. For every license to manufacture Saltpetre there shall be charged a fee not exceeding two Rupees, and for every license to manufacture and refine Saltpetre and to separate and purify Salt in the process of such manufacture and refining, a fee not exceeding One Hundred Rupees. The local Government shall within the limits aforesaid fix the amount of the fee to be paid for such licenses respectively.

Salt educed in the manufacture of Saltpetre liable to full Government Duty.

V. The Salt educed in the process of manufacturing or refining Saltpetre by any person licensed to separate and purify Salt as aforesaid (whether the same shall be purified or not) shall be liable to the full Government Duty on Salt in the Presidency or place in which such Salt is separated, educed, or purified, and such Duty shall be levied, on or before such Salt is removed from the place of manufacture.

Penalty.

VI. If any person shall manufacture or refine Saltpetre or separate or purify any Salt educed in the process of manufacturing or refining the same, without a license under this Act, or being licensed only to Manufacture Saltpetre, shall separate any Salt in the manufacture thereof, or being licensed to manufacture and refine Saltpetre, shall (except as provided in the next Section) allow any Salt separated in the manufacture or refinement of Saltpetre, to be removed from the place of manufacture or refinery without the full amount of Government Duty thereon being first paid, he shall be liable to a fine of Five Hundred Rupees, and on non-payment thereof to imprisonment with or without hard labor for a period not exceeding six months.*

Composition of Duties.

VII. It shall be lawful for the local Government to compound with any person licensed under this Act to manufacture and refine Saltpetre and to separate and purify Salt educed in the process of such manufacturing and refining, for the Duty payable on the Salt estimated to be separated by such person. The composition shall be made for one year only, and may be annually renewed, and shall be in such form, and subject to such provisions and pecuniary penalties, as the local Government shall prescribe. Such provisions and penalty shall be expressed in such license, and the person licensed shall sign a bond embodying such provisions and penalties, and binding him to the fulfilment of all conditions of such license.

Manufactories in the North-Western Provinces to be within Customs jurisdiction. Acts XIV of 1843 and XXXVI of 1855 applicable.

VIII. Every manufactory of Saltpetre in the North-Western Provinces licensed under this Act, and a space not exceeding one hundred yards around such manufactory if the manufactory be also a refinery of Saltpetre, and not exceeding fifty yards if the manufactory be licensed for the manufacture of Saltpetre only, to be fixed by the local Government under Section III of Act XIV of 1843 (*for regulating the levy of Customs Duties and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal*) shall be included in the Customs jurisdiction of the said Provinces; and the provisions of the said Act XIV of 1843 and of Act XXXVI of 1855 (*to empower Officers of Customs and Land Revenue to search houses and other enclosed place for contraband Salt in the North-Western Provinces*) shall apply to Salt manufactured, separated, or purified contrary to the provisions of this Act and to such Customs jurisdiction.

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* See Act XXXIII. of 1867.

In other parts of India to which this Act is extended, who are to exercise the powers conferred by the above Acts on Collectors &c.

IX. In other parts of the British territories in India to which this Act shall be extended in the manner hereinafter provided, the powers conferred by the said Acts XIV of 1843 and XXXVI of 1855 on Collectors and other Officers of Customs and Police Officers respectively, may be exercised by the Magistrates and Police Officers (not being under the grade of a Jemadar or Head Officer of a Police Station) in their respective Districts.

Local Government may frame rules.

X. It shall be lawful for the local Government of the North-Western Provinces and of any other Presidency or place to which this Act shall be extended as hereinafter provided, to frame rules, which shall not be contrary to the Provisions of this Act, for securing the Duty payable on Salt separated or purified under licenses to manufacture and refine Saltpetre and to separate and purify Salt educed in manufacturing and refining the same, for compositions under Section VII of this Act, and for the removal of Salt for which composition has been made, and otherwise to give effect to this Act. Such rules shall be published in the *Official Gazette* of such local Government, and shall have the same force and effect as if they were contained in this Act.

To what substances, &c., this Act is applicable.

XI. The provisions of this Act, wherever it may be in force, shall apply to the manufacture of Russee, Sujjee, and all other substances manufactured from saline earth, and of Kharee Noon, or Glauber's Salt, and every other form of Sulphate of Soda, and to the works at which any such substance is manufactured.

Levy of forfeitures and penalties by distress.

XII. All forfeitures or penalties imposed under the authority of this Act shall be recoverable by any Magistrate of Police, or by the Magistrate or other Officer exercising the powers of a Magistrate as defined in the Code of Criminal Procedure, and may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of any of the above named Officers.

Cancellation of license and destruction of works of offenders.

XIII. When any penalty is awarded for the breach of the conditions of any license under this Act, or against the holder of any license for any offence under this Act, the local Government may cancel such license. The Officer who convicts the offender may also, on the application of the Commissioner of Customs or of the Collector of Customs within whose jurisdiction the offence is committed, or other Officer authorized in that behalf by the local Government, order the works of such offender at which such offence was committed, to be destroyed.

Procedure until return is made to warrant of distress.

XIV. In case any penalty awarded under this Act not be forthwith paid, the Officer by whom such penalty is awarded may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment if distress not sufficient.

XV. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such officer may, by warrant under his hand, commit the offender provided he is not a European British Subject, to prison, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of fine shall not exceed Fifty Rupees and for any term not exceeding four calendar months when the amount shall not exceed One Hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Levy of fines from European British Subjects.

XVI. If the offender shall be a European British Subject, the Magistrate shall record the facts, and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Act not to affect provisions of other laws relating to licenses.

XVII. Nothing in this Act shall be construed to alter or affect the provisions of any other law or Regulation relating to licenses.

Commencement and operation of Act.

XVIII. This Act shall take effect in the North-Western Provinces on the 1st day of the December 1861, and may be extended to any other parts of the British territories in India, by an order of the Governor-General of India in Council to be published in the *Official Gazette*.